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**Federal Aviation
Administration**

Federal Aviation Regulations

Part 65
Certification:
Airman Other than Flight Crewmembers

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Introductory Note

Part 65 is codified under Subchapter D, Airmen, of Title 14 of the CODE OF FEDERAL REGULATIONS.

This FAA publication of the basic Part 65, effective November 1, 1962, incorporates Amendments 65–1 through 65–21 and any changes required by the Department of Transportation transition amendment.

Part 65—Certification: Airmen Other Than Flight Crewmembers

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Adoption of Subchapter D

Adopted: August 6, 1962 **Effective: November 1, 1962**

This amendment adds Subchapter D "Airmen" to Chapter I of Title 14 of the Code of Federal Regulations. The amendment is a part of the program of the Federal Aviation Agency to recodify its regulatory material into a new series of regulations called the "Federal Aviation Regulations" to replace the present "Civil Air Regulations" and "Regulations of the Administrator".

During the life of the recodification project, Chapter I of Title 14 may contain more than one Part bearing the same number. To differentiate between the two, the recodified Parts, such as the ones in this subchapter, will be labeled "[New]". The label will of course be dropped at the completion of the project as all of the regulations will be new.

Subchapter D [New] was published as a notice of proposed rule making in the Federal Register on May 2, 1962 (27 F.R. 4175) and as Draft Release 62–20.

Some of the comments received recommended specific substantive changes to the regulations. Although some of the recommendations might, upon further study, appear to be meritorious, they cannot be adopted as a part of the recodification program. The purpose of the program is simply to streamline and clarify present regulatory language and to delete obsolete or redundant provisions. To attempt substantive changes in the recodification of these regulations (other than minor, relaxatory ones that are completely noncontroversial) would delay the project and would be contrary to the ground rules specified for it in the Federal Register on November 15, 1961 (26 F.R. 10698) and Draft Release 62–20. However, all comments of this nature will be preserved and considered in any later substantive revision of the affected Parts.

Certain changes, not contained in Draft Release 62–20, reflect amendments, to the Parts revised herein, that became effective after the Draft Release was published. Each of these amendments, when published, contained a statement that they would be included in the final draft of the recodified Parts affected and, in addition, Draft Release 62–20, stated that such amendments would be included in the final draft of the revised subchapter. See amendments 20–15, 20–16, 20–17, 21–3, 22–13, 22–14, 24–4, and 24–5.

Draft Release 62–14, dated April 2, 1962, proposed certain amendments to provisions of Part 20 of the Civil Air Regulations under which former military pilots may obtain private and commercial pilot certificates on the basis of military competence. The period for receiving comments on the proposal having closed on June 7, 1962, and no adverse comments having been received thereon, these amendments are incorporated into § 61.31 of the revised subchapter.

Other minor changes of a technical clarifying nature or relaxatory nature have been made. They are not substantive and do not impose any burden on regulated persons. For example, the unnecessary provision, contained in CAR 21.23, that an airline transport pilot must present his pilot certificate for inspection by any person, has been deleted in the light of other existing requirements that such a pilot must present his certificate for inspection upon the request of the Administrator, an authorized representative of the CAB, any State or local law enforcement officer, or any passenger.

Draft Release 62–27 dated June 8, 1962 (27 F.R. 5686) contained a notice of the revision of the procedural rules of the Federal Aviation Agency. The preamble to the release stated that the certification procedural rules in Part 406 of the Regulations of

the Administrator were being considered for transfer to the Parts to which they specifically applied, insofar as they did not duplicate provisions already in those Parts. For this reason, a new Subpart B, relating to procedures for medical certificates, has been added to Part 67 "Medical Standards and Certification" [New]. The subpart is a revision, without substantive changes, of medical certification provisions now in Part 406.

Of the comments received on Draft Release 62–20, several suggested changes in style, format, or technical wording. These comments have been carefully considered and, where consistent with the style, format, and terminology of the recodification project, were adopted.

The definitions, abbreviations, and rules of construction contained in Part 1 [New] of the Federal Aviation Regulations apply to the new Subchapter D.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant matter presented. The Agency appreciates the cooperative spirit in which the public's comments were submitted.

In consideration of the foregoing Chapter I of Title 14 of the Code of Federal Regulations is amended, effective November 1, 1962, by deleting Parts 20, 21, 22, 24, 25, 26, 27, 29, 34, 35, §§ 43.40–43.42, 43.52–43.63, 43.64(b), (c), and (d), 43.65, 43.68, and Special Regulations 428 and 434, and by adding Subchapter D [New]*, reading as hereinafter set forth.

This amendment is made under the authority of sections 313(a), 314, 601, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355, 1421, and 1427).

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*Includes Part 61—Certification: Pilots and Flight Instructors [New]; Part 63—Certification: Flight Crewmembers Other Than Pilots [New]; Part 65—Airmen Other Than Flight Crewmembers [New]; Part 67—Medical Standards and Certification [New].

Amendment 65–1

Airmen [New]

Adopted: October 19, 1962 **Effective: November 1, 1962**

The purpose of this amendment is to incorporate into Subchapter D "Airmen" [New] of the Federal Aviation Regulations, several minor items of a clarifying nature. It also includes three items that had been omitted from the Subchapter through inadvertence. The amendment is a part of the program of the Federal Aviation Agency, in conjunction with its recodification program, to deal with inconsistencies and discrepancies in its regulations that are brought to light in the recodification process, and that can be cured by a spot amendment to the regulation involved, particularly in those instances in which the issuance of a notice of proposed rule making will not be required by the Administrative Procedure Act.

Since the adoption of Subchapter D on August 6, 1962, certain minor discrepancies and inconsistencies have been discovered. A study of them has indicated that they can be resolved in a manner that is not burdensome to the persons affected thereby.

The amendments to §§ 61.15(d), 61.17, 61.27(a)(2)(ii), 61.33(a), 61.47(e), and 61.159 all relate to ratings placed on airman certificates. They are clarifying in nature in that they specify more clearly the kind of rating placed on airman certificates.

The amendments to §§ 61.27(d) and 61.171(d)(4)(v) correct typographical errors.

The amendments to §§ 65.75(b) and 65.93(b) are made solely to clarify the intent of the present section.

The amendment to § 61.43(a)(3) and (b)(2) is made to state positively the duration of a medical certificate for operation requiring a free balloon pilot certificate.

The amendments to §§ 61.115(b) and 61.119(b) are made to correct inadvertent omissions in the text of those sections as recodified. The amendment to § 61.31 restates the requirements that an applicant for a pilot certificate, based on military competence, must meet. These requirements were fully set forth in Draft Release 62–14 dated April 2, 1962. The period for receiving comments on that proposal closed on June 7, 1962, and no adverse comments were received. The amendments to § 63.3 are made to state positively the duration of a medical certificate for operations requiring a flight engineer or flight navigator certificate. This duration was previously set forth in §§34.43 and 35.43, of the Civil Air Regulations.

Since this amendment is clarifying in nature, and merely restates the substance of the regulations in accordance with Draft Releases 61–25 and 62–20, I find that notice and public procedure hereon are unnecessary, and it may be made effective on less than 30 days' notice.

In consideration of the foregoing, Subchapter D of Chapter I of Title 14 of the Code of Federal Regulations is amended as follows, effective November 1, 1962.

This amendment is made under the authority of sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1422).

(Published in 27 F.R. 10409, October 25, 1962, effective November 1, 1962.)

Amendment clarifies intent of § 65.75 (b) by inserting "written" in last sentence and § 65.93 (b) is reworded to clarify compliance requirements for renewal of an inspection authorization.

Amendment 65–2

Miscellaneous

Adopted: April 15, 1964 **Effective: July 6, 1964**

(Published in 29 F.R. 5449 on April 23, 1964)

This amendment amends Part 65 [New] of the Federal Aviation Regulations to make paragraph (a) of § 65.81 and subparagraph (a) (1) of § 65.95 applicable to the conditions of Part 43, Maintenance, Preventive Maintenance, Rebuilding, and Alteration [New], as published in the Federal Register (29 F.R. 5447), effective July 6, 1964.

Amendment 65–3

Cheating on Tests and Other Irregularities

Adopted: February 11, 1965 **Effective: March 20, 1965**

(Published in 30 F.R. 2195 on February 18, 1965)

The purpose of these amendments is to prohibit cheating or certain other unauthorized conduct in connection with FAA written airman or ground instructor tests; fraudulent or intentionally false applications for airman, ground instructor, or medical certificates or ratings, or entries in logbooks, records, or reports required in connection with these certificates or ratings; and alteration, or fraudulent reproduction of these certificates or ratings. This action was proposed in Notice No. 64–20 (29 F.R. 4919) issued April 1, 1964. As proposed, it applies to not only the airman regulations but also the regulations covering medical certification and ground instructors.

A number of comments were received on Notice No. 64–20, most of them generally favorable to the proposed amendments. Three comments opposed as too harsh the provision that the commission of a prohibited act is a basis for suspending or revoking an existing certificate or rating held by the violator. A major purpose for this provision is the deterrent effect of the enunciation of a strong available penalty. Thus, the provision is especially significant with respect to a person who assists another in the violation, for example by taking a test for him. In such a case, it is no deterrent to the former (who usually is obtained because he already holds the certificate the latter is seeking) merely to warn him that the principal penalty for taking a test in behalf of another person is that he will not be eligible, for a year thereafter, for any airman, ground instructor, or medical certificate or rating, as the case may be. The most effective deterrent in this situation would be the possibility of loss of one or all of the certificates he already possesses.

The one-year ineligibility for a certificate or rating is automatic in the case of cheating or other unauthorized conduct in connection with written tests. However, as indicated by Notice No. 64–20, the fact that suspension and revocation of certificates or ratings are made available in these regulations does not mean they must be imposed in every case or automatically upon every violator. The same degree of discretion and the same criteria for the imposition of these sanctions will be exercised by the Agency officials responsible for taking enforcement action in this area as in all other areas where penalties are provided for violation of regulations. Furthermore, the sanctions made available by these amendments do not preclude the imposition, in case of violation, of civil penalties under Section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471), either alone or in conjunction with these sanctions.

Comments also were received urging that acts to be prohibited by these amendments should be done "knowingly," or "willfully," or "knowingly or willfully," to incur the sanctions provided. It of course is not the design of these amendments to prohibit acts that might likely be committed inadvertently. Accordingly, these amendments make clear that intention is an element of those prohibited acts that otherwise might likely be committed inadvertently, namely, the removal of a written test, or a false statement on an application for a certificate or rating or in a logbook, record, or required report. Also, responsive to several comments and reflecting the original intention as to reproductions of certificates or ratings, the prohibition has been restated to refer to reproduction for fraudulent purpose. Furthermore, the reference in Notice 64–20 to authorization by the Administrator in this connection has been dropped in these amend-

ments, since only fraudulent reproductions are prohibited, and since new documents are issued where appropriate, thus obviating any need for authorizing alterations.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all matter presented.

In consideration of the foregoing, Part 65 of the Federal Aviation Regulations is amended, effective March 20, 1965, as follows.

These amendments are made under the authority of sections 313(a), 601, 602, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1422, 1427).

Amendment 65–4

Miscellaneous Amendments

Adopted: March 16, 1965 **Effective: April 1, 1965**

(Published in 30 F.R. 3637, March 19, 1965)

This amendment amends section 65.95(a)(1) to make the cross reference therein consistent with the recodified regulations.

Amendment 65–5

Change of Name of "Periodic Inspection" to "Annual Inspection", and Clarification of 100-hour Inspection Requirement

Adopted: February 25, 1966 **Effective: April 2, 1966**

(Published in 31 F.R. 3336; March 3, 1966)

These amendments change the name "periodic inspection" to "annual inspection" throughout the Federal Aviation Regulations, and make clear the conditions under which an inspection satisfying the 100-hour inspection requirement of § 91.169(b) also satisfies the annual (formerly "periodic") inspection requirement of § 91.169(a). No substantive change is made by these amendments.

These amendments are based on, and are issued for the reasons contained in, Notice 65–26, published in the Federal Register (30 F.R. 13167), on October 15, 1965. All comments received in response to Notice 65–26 favored the changes proposed therein.

Comments not directly related to the notice suggested (1) that the references to Part 43 in § 91.169 be changed to references to Part 65, (2) that the "excess time" provision of § 91.169(b) be deleted, and (3) that the authority of the holder of an inspection authorization to approve products for return to service be made explicit in § 65.95(a)(2). These comments do not affect the disposition of Notice 65–26 and will be given future consideration.

In consideration of the foregoing, Chapter I of Title 14 of the Code of Federal Regulations is amended, effective April 2, 1966, as hereinafter set forth.

These amendments are made under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421).

Amendment 65-6

Mechanic Certificates: Knowledge, Experience and Skill Requirements

Adopted: April 13, 1966 **Effective: April 20, 1966**

(Published in 31 F.R. 5949, April 19, 1966)

The purpose of these amendments to Part 65 of the Federal Aviation Regulations is to permit a student at a certificated mechanic school to take the oral and practical tests required for a mechanic certificate or rating before he passes each section of the required written tests or meets the applicable experience requirements. This departure from the sequence ordinarily required will be allowed, during the final phase of his training in the school curriculum, whenever the school shows to an FAA inspector that any of its students has made satisfactory progress at the school and is prepared to take the oral and practical tests. Two minor amendments also are made to Part 65.

The amendments were proposed in Notice 65-25 and published in the Federal Register on October 9, 1965 (30 F.R. 12892). A large majority of the comments received on the Notice concurred in the proposal. A few comments were expressed against the proposal. Two of these comments assumed that the new § 65.80 would permit students to take oral and practical tests after each phase of training. Likewise, several comments concurring with the proposal either assumed or suggested the same progressive taking of these tests. This was not the intention of the proposal, but rather that the oral and practical testing should be permitted only during the final phase of training in the school's course curriculum. The latter intention is implicit in Notice 65-25. The Notice did not speak of "sections" for these tests as it did concerning the written test. Its preamble referred to the student with a "satisfactory record" of progress at the mechanic school. The propriety of attaching the latter meaning to the provision is supported by the fact that some comments apparently considered the proposal had that meaning, for they expressed concurrence either upon the assumption that the student affected has satisfactorily completed all of the part of the school curriculum applicable to the rating sought, before taking the oral and practical tests, or with the additional recommendation that the privilege be extended to only those students who maintains an "overall average" of at least 80%. In order to make this point clear, § 65.80 as amended specifies that for its purposes the time when the student may be permitted to take the oral and practical tests is during the final phase of training.

Several other comments opposed the change with the assertion that all sections of the written test should be passed before the oral and practical tests are taken and none of these tests should be given by the school from which the student graduates, or that practical tests are superfluous for graduates of approved schools in any event. However, as stated in Notice 65-25, compliance with the requirement of § 65.75(b) generally applicable, that an applicant for a mechanic certificate or rating must pass each section of the written test before taking the oral and practical tests, presents a problem for students of certificated mechanic schools because in most cases they would have to wait until after graduation to take the prescribed tests. Furthermore, if an applicant must pass each section of the written test before taking the oral and practical tests, additional delay occurs while he awaits the results of the written test, especially where he fails and must retake one section or more. Also as stated in the Notice, training given in a certificated mechanic school is closely controlled, students are tested throughout each phase of a curriculum, and then in the final phase they are tested by the school on subjects covered in the appropriate FAA written, oral, and practical tests. In view of all of these circumstances, and with the concurrence of the large majority of the comments, the Agency has determined to issue these amendments, as proposed and now clarified.

Also, as proposed, § 65.75(a) is now amended to make clear that an applicant for a mechanic certificate must meet the applicable experience requirement of § 65.77 before he takes the written test. Finally, § 65.71(c) is stricken out because the time for recognition of credit for tests passed before May 20, 1962, has elapsed.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all relevant matter presented.

Since the addition of § 65.80 to Part 65 is relaxatory in nature and imposes no burden upon any person, and the amendment of § 65.75 is clarifying in nature, good cause exists for making these amendments effective on less than 30 days published notice.

In consideration of the foregoing, Part 65 of the Federal Aviation Regulations is amended, effective April 20, 1966.

These amendments are made under the authority of sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1422).

Amendment 65–7

Air Traffic Control Tower Operators

Adopted: May 17, 1966 **Effective: June 23, 1966**

(Published in 31 F.R. 7455, May 24, 1966)

The purpose of this amendment is to revise the knowledge requirements for applicants for control tower operator certificates; to require each person engaged as an air traffic control tower operator in connection with civil aircraft to hold a control tower operator certificate and an appropriate rating; and to revise references to publications to conform to current titles.

The Agency published a notice of proposed rule making in the Federal Register on January 26, 1963 (28 F.R. 727), circulated as Draft Release No. 63–2 which proposed a new rating system in place of the present junior and senior ratings for control tower operator certificates; a revision of the knowledge requirements for applicants in accordance with current practices, and a requirement that each person engaged as an air traffic control tower operator in connection with civil aircraft must hold a control tower operator certificate and an appropriate rating.

Comments received in response to the Notice indicated a general endorsement of the proposal. Delay in incorporation of the proposed amendment and implementation of the revised rating system has been the result of its relationship with another project involving the reissuance of airman certificates.

Implementation of the proposed rating system would require, among other things that all junior and senior control tower operator ratings be exchanged for new rating and new airman certificates. This exchange would represent a sizeable administrative and economic undertaking. In the interest of economy and efficiency it was determined that the two projects could best be accomplished concurrently. As it now appears that additional time will be necessary for the development and implementation of the reissuance system, it has been determined that the part of the proposal relating to the revised rating system for air traffic control tower operators will not be put in effect at this time. Any future action to establish this system will be preceded by an appropriate notice of proposed rule making.

The additional knowledge requirements for a control tower operator certificate imposed by this amendment involve communications operating procedures and flight assistance services. As stated in the Notice the Agency has for several years required its employees who are applicants for control tower operator certificates to be tested in these areas, therefore this revision is in conformance with the current practice. One aviation association recommended that these requirements be expanded to include a basic knowledge of aerodynamics. A second made a similar recommendation, suggesting an additional requirement on aircraft flight characteristics and speeds. The Agency has not observed a lack of knowledge of these subjects on the part of tower controllers. These personnel receive substantial on-the-job training in acquiring the necessary ratings to control air traffic. By this process the new controller learns aircraft performance through observation and practical experience. While this experience contributes little to an academic knowledge of aerodynamics, it does provide the controller with knowledge of those characteristics of aircraft performance that are pertinent to his job at a particular location. Accordingly, in the absence of evidence as to a present need, neither of these recommendations is adopted at this time.

One of the military services noted that the knowledge requirements of Part 65 do not conform to the military training program. While the military training program requires the trainees to satisfactorily complete the FAA certification examination, this examination does not cover all the areas in which the military controller is instructed and, conversely, completion of the examination requires a detailed knowledge of certain subjects in excess of those required by the trainee in performing his control duties in the military environment. The knowledge requirements specified in Part 65 have been determined by the Agency to be the minimum requirements for the certification of a control tower operator exercising control of civil aircraft in air commerce. A determination has been made that it would not be desirable to establish two sets of standards.

Since publication of the Notice, the *Airman's Guide* and the *Flight Information Manual* referenced in § 65.39 have been replaced by the *Airman's Information Manual*. Therefore, references to these publications have been corrected. Additionally, references to old part 60 of the Civil Air Regulations in § 65.41(b) and (c) have been replaced by specific references to Part 91 of the Federal Aviation Regulations. Since these alterations are editorial in nature, notice and public procedure hereon are unnecessary and they may become effective concurrently with the alterations published in the Notice.

In consideration of the foregoing, Subpart B of Part 65 of the Federal Aviation Regulations is amended, effective June 23, 1966, as hereinafter set forth.

These amendments are made under the authority of Secs. 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1422).

Amendment 65–8

Prerequisites for Written Tests

Adopted: May 23, 1966 **Effective: June 26, 1966**

(Published in 31 F.R. 7609 May 27, 1966)

The purpose of these amendments is to remove from the airman certification regulations all requirements that applicants for airman certificates meet aeronautical experience requirements before taking the prescribed written tests. These amendments also remove the requirement that an applicant for an airline transport pilot certificate must meet the general eligibility requirements (other than age) before taking the written test.

Section 61.143 (Airplane rating: aeronautical knowledge) requires an applicant for an airline transport pilot certificate with an airplane rating to meet specified aeronautical experience before taking the written test. (The same requirement exists for the holder of an airline transport pilot certificate, rotorcraft rating, who applies for an airplane rating, since under paragraph (b) of § 61.157 (Additional category ratings) he must comply with § 61.143. A change in the latter section has the effect of removing the requirement automatically in this situation.) Paragraph (c) of § 63.35 (Knowledge requirements) contains this requirement for an applicant for a flight engineer certificate. Paragraph (a) of § 65.75 (Knowledge requirements) contains the requirement for a mechanic certificate or rating. In § 65.115, the sequence stated, and administered accordingly, has placed the experience requirement before the written test. This sequence is not prescribed by the certification regulations for other airmen, nor for an instrument rating under Part 61, and in each of those situations any applicable written test may be taken first. In addition, an applicant for an airline transport pilot certificate, before taking the written test, has been required to meet the general eligibility requirements (other than age) of § 61.141, that is, the requirements on moral character, ability to read, write and understand the English language, education, and medical certification.

Private pilot written examination service has been provided at Flight Service Stations for several years. In addition, the Agency recently conducted a test program in the Southern Region whereby expanded examination service at Flight Service Stations was provided. This service, covering all airmen written examinations, was very well received by the public and the number of applicants taking examinations at Southern Region Flight Service Stations has more than doubled since introduction of the expanded service.

The obligation of the applicants for these airman certificates to first meet aeronautical experience requirements has entailed the need to obtain eligibility verification, before taking the written test at selected Flight Service Stations, from inspectors at Air Carrier District Offices, or General Aviation District Offices or itinerary points. The Agency has determined, in conformity with its overall policy of providing the best possible service to the public, and in order to reduce the required extent of applicants' travel for certification purposes, that the showing of technical qualifying experience needs to be made to the Agency only before the prescribed oral, practical, or flight test, in the four situations discussed.

The Agency believes that the service afforded the public more than offsets the previous requirement that showing of technical qualifying experience must be made before applicants may take certain written tests.

Section 61.21 of Part 61 specifically requires an applicant for a certificate or rating to have passed the written test (if required) and have the applicable aeronautical experience, in order to be eligible for a flight test. Neither Part 63 nor 65 has a similar provision. It is necessary to preclude any apprehension that the oral, practical, or flight test may now precede compliance with technical qualifying experience in any situation, as a result of the removal of the regulatory requirements that the latter precede written tests in the four situations actually involved here. These amendments therefore also add, wherever necessary in these two Parts, the provision that both the written test and technical qualifying experience must precede the showing of skill.

Section 61.145(b)(2) requires an applicant for an airline transport pilot certificate with an airplane rating to have had at least 1200 hours of flight time as a pilot within the 8 years before he applies. Under § 61.143 before these amendments, it was necessary to acquire this experience before the written test. Removing the sequence requirement of § 61.143 now will necessitate the accumulation of the 1200 hours within the 8 years before the flight test. As a result, with the passage of time an applicant entitled to the benefits of § 61.21(b) could lose credit for substantial flight time acquired as a pilot. Section 61.21(b) provides that an applicant for an airline transport pilot certificate need not take the written test within 24 months before taking the flight test if he has been continuously employed as a pilot or as a pilot assigned to flight engineer duties by, and has continuously participated in an approved pilot training program of a United States air carrier or commercial operator. (A similar time extension is provided in like circumstances for a person employed as a pilot by a United States scheduled military air transportation service.) In order to prevent the loss of benefits under this provision, these amendments add to § 61.21(b) a provision stating specifically that the applicant complies with the time limitation of § 61.145(b)(2) if he has had at least 1200 hours of flight time as a pilot within any 8 consecutive years before he takes the flight test, but commencing no earlier than 8 years before he takes the written test (the existing earliest point in time to commence figuring).

Since these amendments are procedural in nature and result in providing applicants for the airman certificates affected an additional benefit, notice and public procedure thereon are not required.

In consideration of the foregoing, Parts 61, 63, and 65 of the Federal Aviation Regulations are amended, effective June 26, 1966.

These amendments are made under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421)

Amendment 65–8 Postponement of Effective Date Prerequisites for Written Tests; Postponement of Effective Date

Adopted: June 24, 1966 **Effective: August 15, 1966**

(Published in 31 F.R. 8913, June 28, 1966)

On May 27, 1966 (31 F.R. 7609), the Agency published amendments to Parts 61, 63, and 65 of the Federal Aviation Regulations to remove from the airman certification regulations all requirements that applicants for airman certificates meet aeronautical

experience requirements before taking the prescribed written tests, and to remove the requirement that an applicant for an airline transport pilot certificate must meet the general eligibility requirements (other than age) before taking the written test. The amendments were to become effective on June 26, 1966.

The amendments did not make any substantive changes in the requirements for any airman certificate. Their intent was to provide more flexibility in the order in which certain parts of the airman tests could be taken by applicants. The Agency had determined, in conformity with its policy of providing the best possible service to the public, and in order to reduce the required extent of applicants travel for certification purposes, that the showing of technical qualifying experience is necessary only before the prescribed oral, practical, or flight test required.

Since the publication of the amendments, the Agency has received several communications from certificated schools and airmen indicating that there may have been some misunderstanding of their effect on the character of airman standards. Although no specific examples have been furnished to show that the amendments would result in the lowering of substantive standards, the comments appeared to express apprehension that such might be the result.

In view of this possible misunderstanding, the Agency has determined that an extension of their effective date would be in the public interest to allow for the furnishing of any specific examples of possible adverse effect of the amendments on the quality of airman certification.

In view of the imminence of the effective date of the subject amendments, I find that notice and public procedure hereon are impracticable, and that good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, the effective date of Amendments 61–21, 63–4, and 65–8 is changed from June 26, 1966 to August 15, 1966.

This amendment is made under the authority of Sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421).

Rescission of Amendment 65–8

Prerequisites for Written Tests

Adopted: August 12, 1966 **Effective: August 12, 1966**

(Published in 31 F.R. 10884, August 16, 1966)

On May 27, 1966 (31 F.R. 7609), the Agency published amendments to Parts 61, 63, and 65 of the Federal Aviation Regulation to remove from the airman certification regulations all requirements that applicants for airman certificates meet aeronautical experience requirements before taking the prescribed written tests, and to remove the requirement that an applicant for an airline transport pilot certificate must meet the general eligibility requirements (other than age) before taking the written test. The intent of the amendments was to provide more flexibility in the order in which certain parts of the airman tests could be taken by applicants. The Agency had determined, in conformity with its policy of providing the best possible service to the public, and in order to reduce the required extent of applicants' travel for certification purposes, that the showing of technical qualifying experience is necessary only before the prescribed oral, practical, or flight test required. Since the amendments were considered to be procedural in nature and to result in providing applicants for the airman certificates affected an additional benefit, notice and public procedure thereon were not considered required.

The amendments were to become effective June 26, 1966. After publication and before that date, the Agency received several communications from certificated schools and airmen indicating that there may have been some misunderstanding of the effect of the amendments on the character of airman standards and expressing apprehension that the amendments would result in the lowering of substantive standards. The Agency thereupon determined that an extension of the effective date of the amendments would be in the public interest, to allow for the furnishing of any specific examples of possible adverse affect of the amendments on the quality of airman certification. Accordingly,

on June 24, 1966, the effective date of the amendments was changed to August 15, 1966 (31 F.R. 8913, June 28, 1966).

Responsive to permission given by the extension of effective date, the Agency received communications from several sources including certificated mechanics and representatives of certificated mechanic schools asserting that the amendments would have an adverse effect on the quality of airman certification. Adverse effect would be caused, it was asserted, for instance, by fostering the taking of written tests, both original and retakes, by increased numbers of unqualified applicants on a "nothing to lose" basis and thereby making more difficult the proper composition, monitoring, and processing of these tests. Also, it was asserted, the standards for taking the written examination would be lowered and with them the high quality of mechanic standards overall that flows from a total "teaching-learning process". In other words, it was asserted that the amendments would encourage a student to take the written test before he has completed the "education phase" and if he is successful it could lessen the incentive for the student to become an educated technician. These views also were expressed at a conference held between the Agency and the representatives of certificated mechanic schools on August 2, 1966.

In view of these assertions and the imminence of the August 15, 1966, effective date, the Agency has determined that it would be in the public interest to rescind the amendments before they become effective. It is contemplated that a notice of proposed rule making on the substance of the amendments will be issued at an early date, to give all interested parties fuller opportunity to participate in the making of the proposed rules.

This rescission of the subject amendments leaves the affected portions of Parts 61, 63, and 65 exactly as they were prior to the issuance of the amendments on May 23, 1966.

In consideration of the foregoing, Amendments 61–21, 63–4, and 65–8 to Parts 61, 63, and 65 of the Federal Aviation Regulations, respectively, are rescinded, effective August 12, 1966.

This rescission is made under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421).

Amendment 65–9

Airman and Ground Instructor Administrative Requirements: Clarification

Adopted: October 14, 1966 **Effective: November 19, 1966**

(Published in 31 F.R. 13522, October 20, 1966)

The purpose of these amendments to Parts 61,* 63, 65, and 143 of the Federal Aviation Regulations is to resolve several inconsistent administrative requirements applicable to airman and ground instructor certificate holders, and to standardize these provisions. The requirements concern presentation of certificates for inspection; application during suspension or after revocation; changes of name, and replacement of lost or destroyed certificates; and retesting after failure (written and flight tests). Several additional changes clarify certain provisions or remove others that are considered unnecessary. The changes were proposed in Notice No. 66–9 issued on March 28, 1966 (31 F.R. 5324), except for those making consistent the provisions on return of certificates that are suspended or revoked.

Several comments concurred generally with the proposals. Other comments were addressed to individual proposals, principally those concerned with presenting certificates for inspection, and with clarifying and incorporating in § 61.39 the interpretation that a flight instructor may not log as instrument time (and receive credit for) periods when he is serving as a flight instructor but not manipulating the controls.

(1) *Presentation of certificates for inspection.* Three comments opposed adding Federal law enforcement officers to the list of persons to whom the holder of an airman or ground instructor certificate must present it for inspection upon request. One comment expressed apprehension that a law enforcement officer might use the regulations

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* Parts 61, 63, and 143 are published separately.

to deprive an individual of his license. However, neither the proposed change nor the existing regulations (already requiring presentation upon request of the Administrator or an authorized representative of the Civil Aeronautics Board or of any State or local law enforcement officer) purport to extend to other agencies authority to enforce FAA safety regulations. The authority to enforce those regulations by a civil penalty or certificate action remains with the FAA, and only this Agency may suspend or revoke an airman certificate issued by it, subject to review by the CAB. This comment also questioned the existing requirements for presentation to other than authorized personnel of the regulatory agencies. However, the requirements, as expanded by these amendments, are appropriate to implement the enforcement of criminal provisions of the Federal Aviation Act of 1958 such as sections 902(b)—Forgery of certificates, and 902(l) through (m)—Aircraft piracy, etc. (for whose investigation the FBI is responsible), as well as to implement regulations issued thereunder and other regulatory provisions. The second adverse comment believed that presentation should be required only to authorized persons who understand what the certificates are, namely, the FAA and CAB. The concern of the third adverse comment was with the question who constitutes a law enforcement officer. However, no difficulty has been encountered in these respects in connection with the existing regulatory provisions, and none can reasonably be expected in the future.

(2) *Application during suspension or after revocation.* Several comments felt it was too harsh to prohibit a pilot whose pilot certificate has been revoked from applying for any pilot or flight instructor certificate or rating for one year, or to prohibit a person whose flight instructor certificate only is revoked from applying for any flight instructor certificate for one year. One of these comments suggested that a pilot who flies for a living could not sustain himself for a year without an opportunity to regain his certificate, and that he should be permitted to requalify without a time limit if he shows evidence of up-dating and training. These comments lose sight of the punitive as well as corrective nature of revocation action. Furthermore, the revocation order may allow application in less than one year.

(3) *Changes of name, and replacement of lost or destroyed certificates.* One comment objected to requiring a brief statement of the circumstances of loss or destruction of a certificate when a person applies for a replacement certificate. The Agency agrees that this requirement serves no useful purpose, and these amendments therefore omit the requirement from Part 61 where it already exists and from the additions made to the other Parts involved. This comment also criticized the requirement to supply documentary evidence verifying a change of name. However, this is a reasonable requirement to safeguard the integrity of certificates that, once issued, are reissued under changed names. Although the comment asserted that some people change their names without marriage or court order, it is reasonable to require at least some documentary evidence in such a case, as is permitted.

One comment mistakenly believed a "user charge" was being introduced into the regulations, that is, the $2.00 charge for a replacement certificate. This is not a new charge. The charge already was provided for in § 61.13 and the other regulations here involved merely repeat what is already included in Part 187.

(4) *Retesting after failure (written and flight tests).* One comment suggested that in § 61.27(d) as amended, the applicant for an airline transport pilot certificate or associated rating should be required, after a second failure of a maneuver of the flight test, to demonstrate competency on related maneuvers. These amendments make no substantive change at this time. A substantive change has been proposed by Notice No. 66-6 (31 F.R. 4735), upon which final action has not yet been completed.

(5) *Other changes.* As proposed, the word "civil" is inserted before the word "aircraft" in § 61.3(f), thus making the language of this prohibition concerning the lack of instrument rating consistent with § 61.3(a) concerning in general the lack of a pilot certificate. Also, § 61.3(f) is amended to reflect the changes recently made by Amendment 61-24, as well as those proposed by Notice No. 66-9.

Strong opposition was expressed to the proposed change in § 61.39(e) that would specifically express the limitation, already existing and confirmed by interpretation, that a flight instructor may not log (and receive credit for) as instrument time, periods when he is serving as a flight instructor but not manipulating the controls. Since the change is clarifying only, it is made as proposed. However, the Agency intends to fully reconsider this provision in view of the public response to Notice 66-9 and, if relaxation of the rule then appears appropriate, to issue a notice of proposed rule making in order to allow full public participation in making the rule change.

These amendments make the remaining changes proposed by Notice No. 66-9. In addition, the provisions requiring the return of suspended or revoked certificates are made consistent throughout these regulations. Thus, §§ 61.9(g), 63.15(b), 65.15(c), and 143.7(b) are all amended to provide that the holder of a suspended or revoked certificate shall, upon the Administrator's request, return it to the Administrator. This change was not proposed by Notice No. 66-9; however, since the provision is considered procedural only, notice and public procedure thereon is not necessary.

Interested persons have been afforded an opportunity to participate in the making of these amendments (except those concerning return of suspended or revoked certificates), and due consideration has been given to all matter presented.

In consideration of the foregoing, Parts 61, 63, 65, and 143 of the Federal Aviation Regulations are amended effective November 19, 1966.

These amendments are made under the authority of sections 313(a), 601, 602, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1422, 1427).

Unnumbered Amendment

Technical Amendments to Reflect Transition to Department of Transportation

Adopted: April 4,1967 **Effective: April 1, 1967**

(Published in 32 F.R. 5769, April 11, 1967)

The purpose of these amendments is to make changes in the Federal Aviation Regulations that are necessary because of the taking effect of the Department of Transportation Act (49 U.S.C. 1651 et seq.) on April 1, 1967. On April 1, 1967, the Federal Aviation Agency became the Federal Aviation Administration in the Department of Transportation, and the aviation safety functions of the Civil Aeronautics Board under Titles VI and VII of the Federal Aviation Act of 1958 were transferred to the National Transportation Safety Board.

This rule-making action therefore changes the term "Federal Aviation Agency", wherever it occurs in the Federal Aviation Regulations, to "Federal Aviation Administration", and the word "Agency" when used alone to denote the Federal Aviation Agency to "FAA". For reasons of economy the editions of these regulations that are currently for sale will not be reprinted merely to make these changes. Whenever they are reprinted for other reasons, the printing changes will be made. However, the pages of Part 1 reflecting the changes in definition of the term "Administrator" and the abbreviation "FAA" will be reprinted as soon as possible.

The changes made in the Parts containing references to the Civil Aeronautics Board that are affected by the transfer of functions to the National Transportation Safety Board are self-explanatory. Pages containing these changes will also be reprinted as soon as possible.

Notice and public procedure thereon are not required since these amendments merely reflect changes of law, and they may therefore be made effective immediately.

In consideration of the foregoing, the Federal Aviation Regulations (14 CFR Chapter I) are amended, effective April 1, 1967.

These amendments are made under the authority of sections 3(e), 6(c) and 9(f) of the Department of Transportation Act (15 U.S.C. 1652(e), 1655(c), 1657(f) and section 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)).

Amendment 65-10

Cross Reference Corrections in FAR Parts 61, 65, 141 and 147

Adopted: April 4, 1967 **Effective: April 10, 1967**

(Published in 32 F.R. 5770, April 11, 1967)

These amendments update certain cross references in the Federal Aviation Regulations and make other miscellaneous corrections.

At the time of the recodification, it was necessary to include in the Federal Aviation Regulations cross references to the Civil Air Regulations or Special Civil Air Regulations where the referenced provision had not yet been recodified. These amendments update

those cross references not previously updated. No substantive change is involved in these amendments. In some instances, the cross references as updated herein have been anticipated in compilations and reprints of the respective Parts of the regulations.

In addition, the term "Federal Air Surgeon" is substituted for the term "Civil Air Surgeon" in § 11.55 to correctly state the title of that official.

Since this amendment does not involve any substantive change and does not impose a burden on any person, notice and public procedure thereon are unnecessary, and the amendment may be made effective immediately.

In consideration of the foregoing, Chapter I of Title 14 is amended, effective April 10, 1967.

These amendments are made under the authority of section 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)).

Amendment 65–11

Employment of Repairmen by Commercial Operators to Perform Maintenance

Adopted: September 20, 1967 **Effective October 27, 1967**

(Published in 32 F.R. 13505, September 27, 1967)

The purpose of these amendments to Parts 65 and 121 of the Federal Aviation Regulations is to permit a commercial operator certificated under Part 121 of the Federal Aviation Regulations to (1) employ a repairman to perform or supervise maintenance, preventive maintenance, and alterations on aircraft or components thereof, and (2) perform maintenance for, and have maintenance performed by other Part 121 certificate holders. This amendment was proposed as a Notice of Proposed Rule Making (Notice 67–8) issued on March 6, 1967, and published in the Federal Register on March 19, 1967 (32 F.R. 3946).

Consideration was given and an evaluation made of each of the six comments that were received in response to the notice. Two of the comments generally favored the proposal while four were opposed to it. Those comments in opposition expresed concern principally in two areas. First, that the adoption of the amendment, by permitting repairmen to be used by commercial operators, would lower maintenance standards. Secondly, that the extension of the privilege for use of repairmen to commercial operators would have a deteriorating effect by lowering the standards for persons to obtain repairman or A and P mechanic certificates.

The repairman certificate is issued by the FAA for specific duties requested and then only after substantiation of individual technical ability and background. The maintenance requirements in the regulations are the same for the air carrier and commercial operator, and both the air carrier and the commercial operator must comply with these maintenance requirements in order to retain their operating certificate. Permitting the commercial operator to use repairmen will enable the performance of maintenance for which the commercial operator is primarily responsibile but which it has been precluded from doing. As the requirements for maintenance and compliance are unchanged, the standard of maintenance should not be lowered.

A misunderstanding of the effect of the amendment is evidenced by those comments that express concern that the use of repairmen by commercial operators will lower the standards of a repairman certificate or an A and P mechanic certificate. The same qualifications will be required of a repairman for a commercial operator as are now required to certificate a repairman for a repair station or air carrier. Furthermore, past experience with the repairman cetificate does not support the contention that extending the use of repairman to commercial operators will tend to have the repairman used in lieu of the A and P certificated mechanic. The repairman certificate was initiated for the purpose of enabling repair stations and air carriers to have certificated coverage

in facilities engaged in the maintenance of components and appliances where it is not necessary or practical to utilize the services of persons holding an A and P certificate. A further purpose was to enable the performance of major repairs or alterations of propellers and any repairs or alterations of instruments that Part 65 prohibits an A and P mechanic from performing. The amendment will extend to the commercial operator as well as the repair station and air carrier the privilege of using repairmen but with the purpose and standards for certificating repairmen remaining unchanged.

As stated in the notice, the commercial operator is required under Part 121 to perform maintenance under the same standards as the air carrier. The amendment will permit the commercial operator to carry out, in the same manner as the air carrier, its primary responsibility for maintenance, including all methods, techniques and practices, and for the competency of the airmen doing that work.

In consideration of the foregoing and for the reasons stated in Notice 67–8, Part 65 and Part 121* of the Federal Aviation Regulations are amended, effective October 27, 1967.

These amendments are issued under the authority of sections 313(a), 601, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1422).

*Part 121 is published separately.

Amendment 65–12

Certain Airman Certificates Issued to Persons Other than U.S. Citizens—Deletion of 12-month Duration Limitation

Adopted: November 14, 1967 **Effective: December 21, 1967**

(Published in 32 F.R. 15918, November 21, 1967)

The purpose of these amendments is to delete the 12-month duration limitation for certain airman certificates issued to persons who are not U.S. citizens. The certificates affected are airline transport pilot certificates, pilot certificates with a lighter-than-air category rating, flight navigator and flight engineer certificates, and air traffic control tower operator, aircraft dispatcher, mechanic, and parachute rigger certificates and associated ratings.

These amendments were proposed in Notice No. 67–22 and published in the Federal Register on June 6, 1967 (32 F.R. 8094).

The original purpose for the 12-month certificate duration limitation was to provide a means for determining whether certificates issued to citizens of foreign countries should remain in force in the event the current reciprocal granting of airman privileges should be modified or terminated. Since the removal of the reciprocity requirement from the regulations, yearly renewal of these airman certificates serves no purpose, and the FAA has determined that the administrative workload associated with their renewal should be eliminated. The duration limitation has already been removed with respect to private and commercial pilot (heavier-than-air) certificates, which, like ground instructor certificates and ratings issued to persons other than U.S. citizens, have indefinite duration.

The public comments received on the Notice, with two exceptions, favored the proposal to eliminate the 12-month duration limitation. One unfavorable comment was concerned with an asserted preferential treatment of foreign nationals in the issuance of certificates. However, the purpose of the proposal, as stated, is to remove a burden upon the FAA and the airmen involved that no longer serves a useful purpose. The other unfavorable comment asserted that privileged status should be given to U.S. citizens, and that a noncitizen who wishes to be treated like a U.S. citizen should go through all the necessary requirements to become a citizen. However, this comment does not take into account the fact that eligibility for airman certificates does not depend upon citizenship.

To protect the interests of airmen holding certificates which, because of the 12-month duration limitation, will expire or have expired, the amendments provide that those airmen may obtain reissuance of the certificates without proof of technical ability. The certificate will be reissued to the holder without an expiration date. Unless the holder of an expired certificate obtains a reissuance, he will be unable to exercise any airman privileges under that certificate.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, Parts 61, 63, and 65 of the Federal Aviation Regulations are amended, effective December 21, 1967.

These amendments are made under the authority of sections 313(a), 601, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1427).

Amendment 65–13

Reduction of Minimum Age for Air Traffic Control Tower Operator Certificate

Adopted: November 5, 1969 **Effective: December 14, 1969**

(Published in 34 F.R. 18226, November 14, 1969)

The purpose of this amendment to Part 65 of the Federal Aviation Regulations is to reduce the minimum age for eligibility for an air traffic control tower operator certificate from 21 to 18 years.

This amendment was proposed in Notice 69–25, issued on June 6, 1969, and published in the Federal Register on June 13, 1969 (34 F.R. 9347). Eight comments were received on the Notice, four of which concurred in the proposal. The other four comments opposed the proposal, generally on an asserted lack of maturity and judgment of persons only 18 years old. However, as stated in the Notice, although a person less than 21 years old would be eligible for a certificate he would not receive a rating to control aircraft at any particular airport until he shows the qualifications to perform the duties of an operator at that airport.

One opposing commentator stated he would concur if the proposed lowering of the minimum age were limited to controllers who were previously certificated as air traffic controllers in a military service. While the Notice referred to discharged military control tower operators as a ready source of trained recruits, it is not considered appropriate to limit the scope of the rule change to those persons, in view of the fact that a certificated operator would not receive a rating to control aircraft at any particular airport until qualified, regardless of whether he came from the military.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, § 65.31 of the Federal Aviation Regulations is amended, effective December 14, 1969.

This amendment is made under the authority of sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Amendment 65–14

Name, Operations, and Curriculum

Adopted: March 27, 1970 **Effective: May 3, 1970**

(Published in 35 F.R. 5331, April 3, 1970)

The purpose of these amendments to Part 147 of the Federal Aviation Regulations is to change the name of mechanic schools certificated under that Part to "aviation maintenance technician schools"; provide more specific guidelines for the certification and operations of these schools; and provide new minimum curriculum requirements, for both certification and operations purposes, that reflect technological advancements of the aviation industry. The amendments to Part 65 reflect the changed name of the schools, and remove inconsistent or obsolete provisions.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rule making (Notice 69–6) issued on February 26, 1969, and published in the Federal Register on March 4, 1969 (34 F.R. 3751). Due consideration has been given to all comments presented in response to that Notice.

Fifty-nine comments were received on the Notice, the majority of which favored the proposals. A number of the comments either objected to particular items proposed, or suggested alternatives.

(1) *Change in name.* As proposed in the Notice, these amendments substitute the designation "aviation maintenance technician school" for "mechanic school" in the title and text of Part 147. Most of the commentators favored this change of name, stating that it will reflect a more professional image and be more descriptive of the mechanic's job in today's advanced technology. One commentator proposed adding the phrase "FAA approved course" to distinguish this course from non-approved courses. However, this change is considered to be unnecessary.

(2) *More specific guidelines for certification and operations of schools.*

(a) *As to certification.* Two commentators opposed eliminating the requirement for test clubs for running-in engines, in § 147.15, asserting that test clubs are required to properly perform certain engine maintenance testing functions. The reason given in the Notice for the proposed rule change is that current engine manufacturers' overhaul procedures do not require using test clubs for running-in engines after overhaul. It was not intended to preclude the use of test clubs in properly performing engine maintenance testing functions. However, to avoid possible confusion and accommodate the use of test clubs, where related to schools' specific curriculum in use, the term "suitable facilities for running engines" is substituted in these amendments for the proposed requirement of "separate space with permanent, portable, or mobile test stands."

Four commentators disapproved of the use of the word "suitable" (proposed for use in additional paragraphs of § 147.15), asserting that the word lacks specificity and therefore is subject to a wide range of individual interpretations. The term "suitable" has previously appeared in six paragraphs of this section. As issued, the Notice merely proposed application of this flexibility to the other requirements for facilities and equipment.

One commentator stated that the proposed changes do not place enough emphasis on the regulation of the classroom noise level. The noise level problem is met by the new requirement for an enclosed separate classroom suitable for teaching theory classes. Two commentators stated that the proposed changes should allow for provision of a space consisting of a classroom and a laboratory. However, to have laboratory and classroom space together would not improve the capability for noise control at the classroom level.

A number of comments were directed to the proposal that under § 147.23 a school must provide at least one instructor, holding appropriate mechanic certificates and ratings, for each 25 students in each shop or laboratory class. Thus, one commentator suggested that the ratio be no more than 20 students to one instructor in theory classes and 12 students to one instructor in shop and laboratory classes, asserting that a ratio of 25 students to one instructor in a shop or laboratory class is too many students for

the instructor to control. On the other hand, several commentators opposed any limitation of this kind, characterizing it as too restrictive. The decision to have a specified ratio of students to instructors resulted from research and study, as well as from practical experience. The 25 to 1 ratio represents an upper limit, and it is not meant to suggest an ideal ratio. In fact, some schools normally employ ratios ranging from 20 to 1 down to 12 to 1.

(b) *As to operations.* Most of the commentators agreed with the proposed amendments to § 147.31 providing that a school may not credit a student with training received at that school prior to certification, and that a student may receive credit for previous experience to the extent that the experience is comparable to the required curriculum subjects. A few comments disagreed. However, as stated in the Notice, this amendment should encourage schools to seek certification without delay.

A large number of commentators favored the proposed Amendment to § 147.31 requiring schools to use an approved system for determining final course grades, and for recording and controlling student attendance. Some commentators expressed concern that the FAA standard of acceptability might not be standard among all inspectors; or that it difficult to have a rigid accounting of student class attendance at a collegiate-type school.

The proposed changes, requiring only that each school establish an approved system that is capable of controlling and recording attendance, without complete standardization, is considered sufficient to assure uniformity, as stated in the Notice.

A number of comments concerned the proposal to add to § 147.31 a provision that a school may not allow a student to attend classes of instruction more than 8 hours in any day or more than 6 days or 40 hours in any 7-day period. Several commentators asserted that this provision would prevent the student from attending make-up sessions, and other comments asserted that it would be desirable to allow the schools to give instruction for 48 hours in any 7-day period, as many students do not work and can carry the load. Other commentators suggested that the only limitation on student attendance should be the student's ability to maintain a 70% grade in all required subjects, or that students should not be allowed to receive course credit for attendance at courses other than during regularly scheduled hours of instruction, or that it should be possible to make up absences occurring because of sickness, strikes, holidays, and snow days. After further consideration, and in view of the comments and the fact that the schools may not require a student to attend classes of instruction for more than a specified number of hours, it has been determined not to implement this proposal.

Three commentators on the proposal to strike from § 147.35 the present requirement that the certificate issued (whether a certificate of completion or graduation) show the student's average grades, but to provide that the certificate reflect the student's standards of performance during the entire curriculum, asserted that such a showing is unnecessary since such a record is available from other sources. After further consideration and in view of these comments, it has been determined not to require the certificate to show either the average grades or standard of performance.

(3) *Minimum curriculum requirements.* The majority of the commentators agreed with the proposal, by amendment to § 147.21 and addition of appendices, to increase the number and type of items and subjects taught, and to indicate the levels of proficiency at which the items of subjects must be taught. Several comments questioned whether the general curriculum subjects must be taught as a separate curriculum from the airframe and powerplant curriculum subjects. This is not intended. The purpose of listing the general curriculum subjects separately is merely to avoid repetition.

A number of commentators opposed increasing the required numbers of hours of instruction. Principal comments stated that post-graduate high schools, technical institutes, and community colleges that operate on a 2-year curriculum would have problems with the increase in curriculum hours; and that the requirement that the curriculum show the required practical projects to be completed will be hard to enforce, and that it is impractical to list required projects for each school because of the changing nature of the aeronautical industry and the equipment involved.

As stated in the Notice, a national study of the aviation mechanics occupations was used as the basis for developing these curriculums. Approximately 507 tasks commonly

performed by mechanics were analyzed along with the results of a survey. The information collected showed the proportion of over 18,000 certificated mechanics who performed each task, the frequency with which the task was performed, and the degree of industry training involved. A National Advisory Committee, consisting of 15 members representing a broad segment of the aviation community, assisted in determining the tasks to be performed and the level of proficiency required of a student at a certificated school.

After careful review of all these suggestions, Appendix A is adopted as proposed. Appendix B is adopted with a change under the subject "Basic Electricty" that strikes out the words "conductivity and," so that the sentence reads "calculate and measure electrical power." Appendix C is adopted with the following changes: Item 36 is redesignated as Item 37 and the teaching level is raised to level 2, Item 37 is redesignated as Item 36 and the teaching level remains at level 1. Appendix D is adopted with one change: the teaching level of Item 1 is changed from level 2 to level 1.

The Notice proposed that each school have a maximum of 2 years from the effective date of these amendments to change to the new curriculm. Two commentators felt that a 2-year period would be inadequate for a school to decide whether it desires to retain its certification, and suggested a 5-year period. However, the 2-year period is considered a sufficiently long period for the purpose.

The amendments to Part 65 remove obsolete or inconsistent provisions. These amendments are minor in nature, effect no substantive change and are ones in which the public is not particularly interested. Notice and public procedure thereon are therefore unnecessary. The words "certificated mechanic school' 'are changed to "aviation maintenance technician school" in §§ 65.77 and 65.80, to conform with the new name in Part 147. In addition, these amendments add the words "or a certificate of completion" after the words "graduation certificate" in § 65.77 to conform with the change in Part 14. Also, the words "final phase of his training in the course curriculum" in § 65.80 are changed to "final subjects of his training in the approved curriculum" to conform with the change in Part 147.

In consideration of the foregoing, Parts 65 and 147 of the Federal Aviation Regulations are amended, effective May 3, 1970.

(Sections 313(a), 601, and 607, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1427. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c)).

Amendment 65–15

Establishment of Facility Rating

Adopted: July 27, 1970 **Effective: August 31, 1970**

(Published in 35 F.R. 12326, August 1, 1970)

The purpose of these amendments to Part 65 of the Federal Aviation Regulations is to: (1) establish a "facility rating" that may be obtained by a certificated air traffic control tower operator who qualifies at all operating positions at a particular control tower; (2) provide that a certificated operator without that rating may control traffic at those operating positions for which he has qualified at a particular control tower, under the supervision of an operator holding a facility rating for that tower; and (3) drop the present junior and senior ratings.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rule making (Notice 70–12) issued on March 13, 1970, and published in the Federal Register on March 20, 1970 (35 F.R. 4862). Three public comments were received on the Notice. All of these comments concurred with, or had no objection to, the proposal. One commentator suggested minor changes to facilitate the exchange, and clarify the application of the practical test to operations in a VFR tower. These suggestions involve procedural matters which will be handled administratively.

Two minor changes are made from the proposal. First, the Notice proposed that an applicant for a facility rating who bases his eligibility on having previously held a facility rating at a different tower would be required to have held that rating for at least 6 months of the 2 years before the date he applies for the rating. The 2-year limitation has not been required previously, and upon further consideration it appears to be an unnecessary restriction that may prevent an otherwise competent controller from holding a facility rating. Therefore, the 2-year limitation has been omitted in these amendments. Second, the Notice proposed that an operator could not issue air traffic clearances for IFR flight without authorization from the appropriate air route traffic control center. Since a tower may be under the jurisdiction of some facility other than an air route traffic control center, the general term of reference "facility exercising IFR control" has been substituted.

As proposed, these amendments replace the system of qualifying a controller on the basis of his competence to control traffic in VFR or IFR weather conditions with a system of qualification by operating position, under which a controller who has qualified at an operating position may control air traffic under the supervision of another controller holding a facility rating without regard to the weather conditions, or type of air traffic controlled by that person. The amendments are now issued for the reasons stated in the notice, with the two minor changes discussed herein.

In consideration of the foregoing, Subpart B of Part 65 of the Federal Aviation Regulations is amended, effective August 31, 1970.

(Sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422), and section 6(c) of the Department of Transportation Act 49 U.S.C. 1655(c)).

Amendment 65–16

Changes in References to FAA Regulations, Position Title, and Certain Addresses

Adopted: August 27, 1970 **Effective: September 4, 1970**

(Published in 35 F.R. 14074, September 4, 1970)

The purpose of these amendments to Parts 61, 63, 65, 67, 141, and 143 of the Federal Aviation Regulations is to reflect in Parts 65 and 141 appropriate references to Part 430 of the Regulations of the National Transportation Safety Board; reflect in Part 67 an organizational change in the title of the FAA Assistant Administrator to FAA Regional Director; and update several references in the Regulations to the addresses to which applications for replacement of lost or destroyed certificates and certain other communications with the FAA are sent. These amendments also correct an inadvertent error made in a recent amendment to Part 65.

On April 1, 1967, the aviation safety functions of the Civil Aeronautics Board under Titles VI and VII of the Federal Aviation Act of 1958 were transferred to the National Transportation Safety Board (49 U.S.C. 1651 et seq.). Thereafter the Board issued Part 430 of its Regulations pertaining to aircraft accidents, incidents, overdue aircraft, and safety investigations, effective November 10, 1969 (34 F.R. 15749). These amendments accordingly change the references in Parts 65 and 141 to Part 430 of the Regulations of the National Transportation Safety Board instead of to Part 320 of the Regulations of the Civil Aeronautics Board.

The organizational title of FAA Assistant Administrator has been changed to FAA Regional Director, and this change is reflected in the amendments to Part 67.

The addition of "Department of Transportation" and box numbers and zip codes to addresses found in Parts 61, 63, 65, 67, and 143 serve to clarify and modernize mailing addresses to which applications for lost or destroyed certificates and certain other communications with the FAA are sent.

In Notice 70–12 (35 F.R. 4862) it was proposed that an air traffic control operator should not be authorized to issue air traffic control clearances for IFR flight without authorization from the appropriate air route traffic control center. In issuing Amendment 65–15 pursuant thereto (35 F.R. 12326) it was stated that a tower may be under the jurisdiction of some facility other than an air route traffic control center, and that therefore the general phrase of reference "facility exercising IFR control would be used. However, in the amended § 65.45(b) the phrase "air traffic control" was inadvertently used instead of "IFR control." These amendments correct that inadvertence by replacing "air traffic control" with "IFR control."

Notice and public procedure hereon are not required since these amendments merely reflect changes of law and procedures as well as the correction of an inadvertent clerical error, and they may therefore be made effective in less than 30 days.

In consideration of the foregoing, Parts 61, 63, 65, 67, 141 and 143 of the Federal Aviation Regulations are amended, effective September 4, 1970.

(Sections 313(a), 602, 608 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1422, 1428. Sections 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c)).

NOTE: Corrections to addresses in Sections 65.16(b) and (c) and 65.21 are incorporated in the original printing of this basic volume.

Amendment 65–17

Airmen and Ground Instructors: Certain Additional Information in Application for Duplicate Certificates, and Expiration Date for Telegraphic Certificate

Adopted: February 5, 1971 **Effective: April 12, 1971**

(Published in 36 F.R. 2864, February 11, 1971)

The purpose of these amendments to Parts 61, 63, 65, and 143, of the Federal Aviation Regulations is to (1) require certain additional information in an application for a lost or destroyed airman or ground instructor certificate; and (2) provide a 60-day limitation on a telegram from the FAA confirming that the lost certificate was issued.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a Notice of Proposed Rule Making (Notice 70–30) issued on July 23, 1970, and published in the Federal Register on July 31, 1970 (35 F.R. 12284). Due consideration has been given to all comments presented in response to that Notice.

Five of the seven public comments received on the Notice concurred in the proposals. Of the other two public comments, one opposed the proposals as an invasion of privacy because they require the inclusion of social security number in an application for replacement of a lost or destroyed certificate. However, as stated in the Notice, it is considered that requiring the applicant to state, in addition to the items previously required, his permanent mailing address (including zip code), social security number (if any), and date and place of his birth, will reduce the number of instances in which a duplicate certificate is issued to a person who is not entitled to it. The remaining commentator, although not specifically opposing the proposals, sought assurance against any possible delays in the issuance of telegraphic confirmations.

One commentator concurring in the proposals suggested the use of a standard application form, with confirmation of identity thereon through an FAA office before application. This suggestion is beyond the scope of the Notice, and in any event its net effect would be to impose an undue burden on the applicant for a duplicate certificate and to render the use of confirming telegrams unnecessary. Another commentator concurring in the proposals suggested that the request for telegraphic confirmation should also be an automatic request for a duplicate certificate. However, the relevant existing provisions already provide for this effect if the applicant chooses to use that method of application.

In consideration or the foregoing, and for the reasons stated in Notice 70–30, Parts 61, 63, 65, and 143 of the Federal Aviation Regulations are amended, effective April 12, 1971.

(Sections 313(a), 601, 602, and 607 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1422, 1427. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c)).

Amendment 65–18

National Weather Service

Adopted: July 20, 1971 **Effective: July 20, 1971**

(Published in 36 F.R. 13911, July 28, 1971)

The purpose of these amendments is to change the name Weather Bureau to read National Weather Service in the Federal Aviation Regulations. This change will affect §§ 1.1, 61.113, 61.143, 65.55, 121.101, 121.119, 121.651, 127.49, 135.65, and 141.47.

By virtue of Department of Commerce Organization Order 25–5B the name "Weather Bureau" has been changed to "National Weather Service," effective October 9, 1970. These amendments are necessary to make the Federal Aviation Regulations consistent with the name established by Order 25–5B.

Since the amendments to Parts 1, 61, 65, 121, 127, 135, and 141 are editorial in nature, I find that notice and public procedure thereon are unnecessary and that good cause exists for making them effective in less than 30 days.

In consideration of the foregoing, Parts 1, 61, 65,* 121, 127, 135, and 141 of the Federal Aviation Regulations are hereby amended, effective July 20, 1971.

These amendments are issued under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

*Amended § 65.55(a)(3)

Amendment 65–19

Military Air Traffic Control Tower Operators— Experience Requirements for Facility Rating

Adopted: October 28, 1971 **Effective: December 6, 1971**

(Published in 36 F.R. 21280, November 5, 1971)

The purpose of this amendment to Part 65 of the Federal Aviation Regulations is to allow military air traffic control tower operators to meet the practical experience requirements for a facility rating at a particular tower by having at least 6 months of experience as an air traffic control tower operator. However, that experience need not be had (1) at that tower without a facility rating or (2) at a different tower with a facility rating there, as required of other control tower operators.

Interested persons have been afforded an opportunity to participate in the making of this amendment by a Notice of Proposed Rule Making (Notice 71–11) issued on April 23, 1971, and published in the Federal Register on April 29, 1971 (36 F.R. 8051). Due consideration has been given to all comments presented in response to the Notice.

Four of the seven public comments received in response to the Notice concurred in the proposal. The other three opposed the proposal. One of these asserted that the proposal would result in a derogation of safety. Another asserted that (1) if an Air Force controller were transferred frequently during the six month period, he might not acquire adequate practical experience; (2) under the proposed rule civilian and military controllers at joint-use facilities might not have the same qualifications; and (3) the proposed rule would lower standards without consideration of established air traffic control procedures and the need for maintaining the highest degree of safety in aviation. The third opposing commentator asserted that the facility ratings placed on certificates would be degraded.

The FAA does not agree that any of these asserted results will be caused by this rule. The rule does not entitle an Air Force controller to a facility rating so that he may immediately control air traffic. It only relieves him of waiting six months at a particular tower, if he has satisfactorily served elsewhere as an air traffic control tower operator for at least six months. He is still required to pass the skill requirements under § 65.37 that are applicable to each operating position in the tower at which the rating is sought. Safety would not be derogated because the rating will not be issued until the individual passes the practical test and demonstrates his competence as an air traffic control tower operator at the particular airport. It has therefore been determined to issue the amendment for the reasons stated in the Notice.

In its response to the Notice, the Directorate of Operations, United States Air Force, recommended changing "air traffic control tower operator" to "air traffic controller" so that the time served by controllers providing only radar approach control service could be applied to the six months experience requirement. However, this change is not necessary as to radar approach control service performed as an airport traffic control function of a particular tower. While performing this service a person is serving as an air traffic control tower operator, and the time involved is applied to the six months experience requirement.

In consideration of the foregoing, § 65.39 of the Federal Aviation Regulations is amended, effective December 6, 1971.

(Sections 313(a) and 601 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c)).

Amendment 65–20

Parachute Riggers; Testing and Privileges

Adopted: June 26, 1972 **Effective: August 5, 1972**

(Published in 37 F.R. 13251, July 6, 1972)

The purpose of these amendments to Parts 65 and 91 of the Federal Aviation Regulations is to: (1) Provide that an applicant who fails a test for parachute rigger certificate may be retested upon the additional instruction and statement of a certificated senior parachute rigger; (2) provide that an applicant for a parachute rigger certificate may receive supervision on meeting his experience requirements from a certificated senior rigger; (3) change the requirements for applicants for master parachute rigger certificates; and (4) provide that a certificated senior parachute rigger may supervise other persons in packing any type of parachute for which he is rated. Also, two minor additional amendments are made to Part 65, and a definition of "approved parachute" is added in Part 91.

Interested persons have been afforded an opportunity to participate in the making of these regulations by a Notice of Proposed Rule Making (Notice 70–31) issued on July 24, 1970, and published in the Federal Register on July 31, 1970 (35 F.R. 12285). Due consideration has been given to all comments presented in response to that Notice.

Seven of the nine commentators (six of them holding master parachute rigger certificates) opposed allowing an applicant for a parachute rigger certificate who fails a

written, oral, or practical test to receive additional instruction from a certificated senior parachute rigger, or allowing supervision by a senior rigger in parachute packing to be credited toward meeting an applicant's experience requirements for certification. These adverse comments generally contended that senior riggers lack sufficient knowledge and experience to instruct or supervise other persons. The FAA does not agree with these assertions.

Under § 65.19(a), an applicant for a parachute rigger certificate who fails any of the prescribed tests may not apply for retesting until 30 days after the date he failed that test. However, previously under § 65.19(b)(4), if the applicant presented a statement from a certificated master parachute rigger, certifying that he gave the applicant at least 5 hours of instruction in the subjects failed and considered the applicant ready for retesting, the 30-day period did not apply. Section 65.19(b)(4) is now changed to allow the applicant to go to a certificated senior parachute rigger for this purpose. Since only a limited number of master parachute riggers are available, this change provides a wider group of qualified parachute riggers from whom the applicant may receive additional instruction before retesting. Whether the applicant waits the 30 days or receives the 5 hours of additional instruction from a qualified parachute rigger, he still must pass the prescribed tests before being eligible for a parachute rigger certificate and associated ratings.

These amendments to paragraph (a) of §§ 65.115, 65.123, and 65.125, as well as to § 65.19(b)(4), recognize that a certificated senior parachute rigger who is qualified to pack a parachute upon which a wearer may rely as a life-saving device would also have sufficient knowledge and experience to instruct and supervise other persons in packing that parachute. Furthermore, with respect to supervising parachute packing, under § 65.129(e) each certificated rigger, whether he holds a senior or master parachute rigger certificate, must pack a parachute for which he is rated in a manner that does not deviate from the procedures approved by the Administrator or the manufacturer of the parachute.

The commentators generally favored reducing the required time period of experience for a master parachute rigger certificate applicant from 5 to 3 years, although several suggested that any requirement should be based on actual experience and proficiency rather than a period of time over which the experience was acquired.

One commentator proposed that a senior parachute rigger should have a minimum period of experience and instructional capability before crediting any instruction received from him, and another suggested establishing a separate certificate for parachute rigger instructors. These suggestions are beyond the scope of the notice, but they will be fully considered by the FAA for possible future rule-making action.

The notice proposed removing from § 65.125(b) the word "instruct" as unnecessary, and the phrase "in the proper methods and procedures of construction" and the word "using" as obsolete. Paragraph (b)(2) in § 65.115, and § 65.119 as proposed in the notice, also referred to "use" as a subject covered in the written tests for senior and master parachute rigger certificates, respectively. However, questions on the "use" of parachutes have long been omitted from the actual written tests as not pertaining to parachute packing and maintenance. Accordingly, subparagraphs (b)(2) of § 65.115, and of § 65.119 as proposed in the notice, are amended by removing "use" as a subject in the written tests.

Additionally, paragraph (b) of § 65.115, and paragraph (b) of § 65.119 as proposed in the notice, provided that the written tests an applicant for a senior or master parachute rigger certificate must pass must cover one type, and two types, respectively, of parachutes in common use. Since 1950, all written tests have been directed to parachutes in general, rather than to any specific type. Accordingly, paragraph (b) of § 65.115 and of § 65.119 are amended to remove references to one type and two types of parachutes, respectively.

Both of these amendments to § 61.115(b) involve minor regulatory changes on which notice and public procedure are unnecessary.

In consideration of the foregoing, Parts 65 and 91 of the Federal Aviation Regulations are amended, effective August 5, 1972.

(Sections 313(a) and 601 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c)).

Amendment 65–21

Carriage of Narcotic Drugs, Marihuana, and Depressant or Stimulant Drugs or Substances

Adopted: June 19, 1973 **Effective: August 1, 1973**

(Published in 38 F.R. 17491, July 2, 1973)

The purpose of these amendments to Part 91 of the Federal Aviation Regulations is to make the current prohibition in § 91.12(a) against the carriage in civil aircraft of narcotic drugs, marihuana, and depressant or stimulant drugs or substances between Mexico and the United States apply to the operation of civil aircraft anywhere within the United States. These amendments also make a violation of § 91.12(a), as well as a conviction for violating any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, and depressant or stimulant drugs or substances, a basis for denying applications for airmen certificates issued under Parts 61, 63, and 65 and a basis for suspending or revoking those certificates. In addition, a violation of § 91.12(a) is made the basis for suspending or revoking the operating certificate authority issued under Part 133 (rotorcraft external-load operations), Part 137 (agricultural aircraft operations), and Part 141 (pilot schools). Finally, this amendment to Part 91 (§ 91.84) requires an appropriate flight plan to be filed for the flight of civil aircraft between Mexico or Canada and the United States, unless otherwise authorized by ATC.

These amendments are based on a Notice of Proposed Rule Making (Notice 72–16) published in the Federal Register on July 4, 1972 (37 F.R. 13189).

A number of comments received in response to Notice 72–16 expressed opposition to regulation by the FAA in the area of narcotics control and appeared to question their justification. As explained in the preamble to the Notice, the current provisions of § 91.12(a) were adopted in 1969 (34 F.R. 13922) in recognition of the increasing hazard to safety in air commerce resulting from the increased use of civil aircraft for the illicit carriage of narcotics and other drugs into the United States. These hazards result from attempts to avoid detection or pursuit through violent maneuvers, low flying, flight in bad weather, and use of unsafe landing areas. Since 1969, information available to the FAA indicates that the illicit carriage of drugs by aircraft is occurring in various places within the United States, in violation of State as well as Federal statutes. Accordingly, in the interest of safety, this amendment extends the applicability of the current prohibition in § 91.12(a) to include the operation of civil aircraft anywhere within the United States with knowledge that narcotic drugs, marihuana, and depressant or stimulant drugs or substances as defined in Federal or State statutes are carried in the aircraft.

The current provisions of §§ 61.6 (§ 61.15 as of November 1, 1973) and 63.12, which were adopted in 1969 (34 F.R. 13922), make a violation of any Federal statute governing illegal activities involving narcotic drugs, marihuana, and depressant or stimulant drugs or substances, or a violation of § 91.12(a), a basis for denying applications for airmen certificates issued under Parts 61 and 63, and for suspending and revoking those certificates. This amendment expands those current provisions of §§ 61.6 and 63.12 to also encompass violations of State statutes governing such illegal activities. In addition, the amendment adds identical provisions to § 65.12 of Part 65, which governs the issuance of airman certificates to air traffic control-tower operators, aircraft dispatchers, mechanics, repairmen, and parachute riggers. As explained in the Notice, the FAA is adopting these amendments to Parts 61, 63, and 65 because it believes a demonstrated willingness to violate Federal or State statutory provisions governing the illegal activities specified, or a demonstrated willingness to violate § 91.12(a), clearly demonstrates a tendency to act without inhibition in an unstable manner and without regard to the rights of others, and clearly demonstrates that the applicant for a certificate would not be compliance minded regarding the many requirements necessary for safety in air commerce or air transportation.

The FAA also adopted in 1969 (34 F.R. 13922) amendments to Parts 121, 123, 127, and 135 which currently provide for the suspension or revocation of an operating certificate issued under those parts if the certificate holder permits any aircraft owned or operated by him to be engaged in any operation he knows to be in violation of § 91.12(a). This amendment adds the same provisions for certificate suspension or revocation to Parts 133, 137, and 141. As stated in the Notice, the rationale for these provisions is the FAA belief that the privileges inherent in those operating certificates can directly support, or even be essential to, the use of aircraft in smuggling narcotic drugs, marihuana, and depressant or stimulant drugs or substances. This is considered to be true regardless of whether the aircraft is being operated under the certificate at the time, since the corporate financial and management strength necessary to operate such aircraft largely flows from the operating certificates. As in the case of airman certificates, operating certificates can have the effect of providing a condition necessary to the use of the aircraft, by any person, in the hazardous business of smuggling. Furthermore, for the same reasons that support actions against airman certificates, the risk-taking willingness of the corporate or individual management of the holders of those operating certificates would clearly negate their ability to adhere to the conditions necessary for safety in air commerce or air transportation. The FAA considers this to be true, regardless of whether that risk-taking occurs by the certificate holder leasing the aircraft to other persons who smuggle the illegal items or by their operating the aircraft themselves in that business.

In addition to the foregoing, the justification for these amendments encompasses the equally important public interest factors that are directly opposed to the continued use of airman and operating certificates to support the aerial smuggling of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

As proposed, this amendment prescribes a new § 91.84 which requires persons operating civil aircraft on a flight between Mexico or Canada and the United States to file a VFR or IFR flight plan, as appropriate, unless otherwise authorized by ATC. In adopting this amendment the FAA considered the fact that Part 99 already requires a flight plan to be filed for flights between other countries and the United States and is of the opinion that the flight plan requirement will further assist the agency in conducting an effective safety enforcement program.

These amendments are issued under the authority of sections 307(c), 313(a), 601, 602, 604, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421, 1422, 1424, and 1427), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Parts 61, 63, 65, 91, 133, 137, and 141 of the Federal Aviation Regulations are amended, effective August 1, 1973.

Amendment 65–22

Inspection Authorization

Adopted: September 9, 1977 **Effective: October 17, 1977**

(Published in 42 FR 46278, September 15, 1977)

SUMMARY: This amendment is being issued to clarify current rules, and to adopt additional rules, applicable to applicants for, and holders of, an inspection authorization (I.A.). This action is necessary since the current rules have been the subject of considerable misunderstanding.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch (AFS–940), Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone (202) 755–8716.

SUPPLEMENTARY INFORMATION:

Interested persons have been afforded an opportunity to participate in the making of this amendment by a Notice of Proposed Rule Making (Notice No. 73–4) issued on January 29, 1973, and published in the Federal Register on February 6, 1973 (38 F.R. 3410). Due consideration has been given to all comments received in response to the Notice. Except as otherwise discussed in this amendment, the amendment and the reasons for it are identical to the proposal and the reasons set forth in the proposal.

Many of the three hundred and seventy-six comments received in response to the Notice expressed disagreement with proposed § 65.91(c)(2). That section would have required the applicant for an inspection authorization to have had diversified practical experience performing aircraft and aircraft engine maintenance during at least the two-year period before applying. Nearly all of the commentators in disagreement with this proposal objected to the use of the word "diversified" as being confusing, vague, or undefined. The FAA agrees that the words "diversified practical experience", as used in proposed § 65.91(c)(2), need further clarification and, accordingly, withdraws this proposal.

In addition, many commentators disagreed with proposed § 65.95(c) and (d). Paragraph (c) would have precluded the holder of an I.A. from exercising the privileges of his authorization outside of the area of jurisdiction of the local FAA District Office in which his fixed base of operation is located. Under paragraph (d), the holder of an I.A. changing the location of, or terminating inspection activity at, his fixed base of operation would have had to surrender the authorization to the local FAA District Office. Most of those opposing these proposals stated, in essence, that a mere change of geographical location has no effect on qualifications to exercise the privileges of an I.A. Others stated that the inability to use an I.A. outside the fixed base of operation would cause economic hardship.

After consideration of these comemnts, the FAA has determined that the holder of an I.A. should not be denied the use of his authorization when going outside the jurisdiction of his local FAA District Office or terminating inspection activity at, or changing the location of, his fixed base of operation, as provided in proposed § 65.95(c) and (d). Accordingly, these proposals are withdrawn.

Proposed § 65.94 would have required the holder of an I.A. to keep, and make available for inspection by the Administrator, a current record of inspections performed by him under § 65.95(a). While a preponderance of commentators favored this proposal, some contended that such requirement would impose an undue economic burden and others felt that it would not be beneficial to anyone. In light of the economic burden that this recordkeeping provision may impose, the FAA has decided to further evaluate the impact of proposed § 65.94. Accordingly, that proposed section is also withdrawn.

Proposed § 65.91(c)(1) was intended to clarify the current section by providing that an applicant for an I.A. would have to hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which has been in effect for not less than three years. Moreover, under proposed § 65.92(a), the holder of an I.A. could exercise the privileges of the authorization only while he holds a currently effective certificate and ratings. While those proposed sections specified that the applicant for, or holder of, an I.A. must have a currently effective mechanic certificate, they did not expressly provide that the airframe and powerplant ratings held must also be current. Sections 65.91(c)(1) and 65.92(a), as adopted, make this clear. These requirements will ensure that the applicant for an I.A. is qualified to exercise the privileges of the authorization and remains qualified while he holds the authorization.

Paragraph (d) of current § 65.91 provides that an inspection authorization expires on March 31 of each year. That paragraph is revoked by this amendment since the provision contained therein is included in new § 65.92(a).

A review of comments received in response to the Notice indicates that proposed § 65.93 appears to have been misinterpreted by several commentators. The purpose of that proposal was merely to require that a person desiring to renew his I.A. must present the evidence currently required by that section at the local FAA District Office having jurisdiction over the area in which his fixed base of operation is located. The proposal was designed to relax the current requirement to submit that evidence at a more distant General Aviation District Office or International Field Office. However, as part of its Operations Review Program, the FAA is considering extensive revisions to current § 65.93, including a revision similar to that set forth in Notice 73–4. In light of this, the FAA concludes that it would be appropriate to consider all revisions to that section during the Operations Review, rather than implementing a single revision at the present time.

The FAA has conducted a preliminary evaluation of the impacts of the provisions adopted in this amendment. Based on that evaluation, it has been determined that the impacts of those provisions will be minimal and that an in-depth evaluation under the policy of the Secretary of Transportation and the Administrator (41 FR 16200; April 16, 1976) is not required.

The principal authors of this document are Irving Birnbaum, Flight Standards Service, and Danvers E. Long, Office of the Chief Counsel.

Accordingly, Part 65 of the Federal Aviation Regulations is amended, effective October 17, 1977.

(Secs. 313(a) and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) and 1421); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Amendment 65–23

Operations Review Program

Amendment No. 4: Miscellaneous Amendments

Adopted: May 19, 1978 **Effective: June 26, 1978**

(Published in 43 FR 22636, May 25, 1978)

SUMMARY: The purpose of these amendments is to update and improve regulations concerning aircraft maintenance, airmen certification, and general operating and flight rules, parachuting, certification and operation of air carriers and commercial operators, air travel clubs, agricultural aircraft operations, repair stations, and aviation maintenance technical schools. These amendments are part of the Operations Review Program.

FOR FURTHER INFORMATION CONTACT:

Mr. D. A. Schroeder, Safety Regulations Division,
Federal Aviation Administration, 800 Independence Avenue, S.W.,
Washington, D.C. 20591; telephone: 202–755–8715.

SUPLEMENTARY INFORMATION:

HISTORY

These amendments are the fourth in a series of amendments to be issued as a part of the Operations Review Program. The following series of amendments have previously been issued as part of the Operations Review Program:

Title	*FR Citation*
Clarifying and editorial changes	(41 FR 47227; October 28, 1976)
Rotorcraft External-Load Operations	(42 FR 24196; May 12, 1977 amended by 42 FR 32531; June 27, 1977)
Airspace, Air Traffic and General Operating Rules	(To be issued at a later date)

These amendments are based on a Notice of Proposed Rule Making (Notice 76–28) published in the Federal Register on December 27, 1976, (41 FR 56280). All interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all matters presented. A number of substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and upon further review by the FAA. Except for minor editorial and clarifying changes and the substantive changes discussed below, these amendments and reasons for their adoption are the same as those contained in Notice 76–28.

Five proposals which were contained in Notice 76–28, pertaining to Part 135, Air Taxi Operators and Commercial Operators of Small Aircraft, are not being dealt with here. They will be considered in conjunction with the proposals contained in Part 135 Regulatory Review Program, Notice No. 77–17: Air Taxi Operators and Commercial Operators (42 FR 43490; August 29, 1977).

Amendments to § 121.343(d), § 121.359(e), § 121.703(f), §127.127(d), and § 127.313(f) were not included in Notice 76–28. Since these amendments are editorial changes which reflect the National Transportation Safety Board's revised regulations, they are included in this amendment.

DISCUSSION OF COMMENTS

The following discussion is keyed to the like-numbered proposals contained in Notice 76–28.

Proposal 4–1. One commenter suggested that the word "knowingly" be inserted between "may" and "make" in paragraph (a) of proposed § 43.12 to clarify the intent behind the meaning of the word "fraudulent". The FAA does not believe it is necessary

to add the word "knowingly" since the proof of a fraudulent act is based on the person knowingly committing the act. Accordingly, the proposal is adopted without substantive change.

Proposal 4–2. No unfavorable comments were received on the proposal to revise paragraph (b)(2)) of Appendix E to Part 43. Accordingly, the proposal is adopted without substantive change.

Proposal 4–3. One commenter recommended clarification of the first paragraph of Appendix F to Part 43 which refers to an additional 3 decibel (db) tolerance allowed to compensate for antenna coupling errors during receiver sensitivity measurements. The commenter states this has been interpreted by some to mean ±1½db and by others to mean ±3db. After review, the FAA agrees and the proposed rule is changed by substituting the word "loss" for "tolerance."

After further review of paragraph (a), Appendix F to Part 43, the FAA believes the words "of the system" should be inserted between the words "frequency" and "is" to clarify that the antenna should be used during the transponder frequency check. Accordingly, proposed Appendix F to Part 43 is adopted as proposed except for the revisions discussed above.

Proposal 4–4. One commenter was against extending the effective date of a temporary certificate from 90 days to 120 days and suggested that the FAA's certificate handling facilities should be improved to provide more rapid service. The FAA believes that an addition of 30 days is necessary to handle the numerous applications received and to avoid the need for applicants to obtain renewal of the temporary certificate. The proposed change to § 61.17(a) with respect to inserting the number "120" in place of "90" was also proposed for § 63.13 and § 65.13 (Proposals 4–5 and 4–11 respectively) and commented on as above. Accordingly, proposed §§ 61.17(a), 63.13 and 65.13 are adopted without substantive change.

Proposal 4–5. For a discussion of comments related to the proposal to amend § 63.13 and for the disposition of that proposal, see Proposal 4–4.

Proposal 4–6. A comment was received which discussed matters not proposed in Notice 76–28. This comment is beyond the scope of the Notice and cannot be considered without further notice and public participation. For a discussion of comments related to proposed § 63.41(b) and for the withdrawal of that proposal, see Proposal 4–12.

Proposal 4–7. No unfavorable comments were received on the proposal to delete § 63.53(b) and (c). Accordingly, the proposal is adopted without substantive change.

Proposal 4–8. No unfavorable comments were received on the proposal to amend § 63.57(a) and therefore it is adopted without substantive change. However, the FAA believes the words "any part of" and "except the section on plotting and computing" in § 63.57(b) should be deleted since they are rendered unnecessary by the amendment to § 63.53 (see Proposal 4–7). Accordingly, the words discussed above are deleted from § 63.57(b).

Proposal 4–9. No unfavorable comments were received on the proposal to revise § 63.59(b) or (c) and the proposal is adopted without substantive change. For comments related to proposed § 63.59(a)(2) and deletion of the phrase "in the case of applicant's first failure" in proposed § 63.59(a)(2), see Proposal 4–12.

Proposal 4–10. Although there were no unfavorable comments to the proposed revision of Appendix A of Part 63, the FAA believes the proposal should be withdrawn since a substantial portion of the rule was inadvertently omitted. Accordingly, the proposal to revise Appendix A of Part 63 is withdrawn.

Proposal 4–11. For a discussion of comments relating to the proposal to amend § 65.13 and for the disposition of that proposal, see Proposal 4–4.

Proposal 4–12. Thirty-nine comments objected to the proposed amendments to § 65.19. Many commenters objected to limiting the number of retests to one within 30 days as proposed in § 65.19(b) in case of an applicant's first failure. These commenters stated that this restriction would place an unnecessary burden on applicants by increasing the time for certification without a commensurate increase in benefits or safety. Upon further review, the FAA agrees and the phrase "In the case of an applicant's first failure" in proposed § 65.19(b) is deleted.

The proposed change to § 65.19(b) with respect to the phrase "In the case of an applicant's first failure" is identical to the proposed change to §§ 63.41(b) and 63.59(a)(2) in Proposals 4–6 and 4–9 respectively. Accordingly, the proposed change to § 63.41(b) is withdrawn and the proposed change to § 63.59(a)(2) is amended to delete the above phrase.

Several commenters objected to proposed § 65.19(b) because it denied certified ground instructors the privilege of giving additional instruction to applicants in preparing them for retesting. The commenters stated that ground instructors were the only persons, other than flight instructors, who have been tested on their ability to teach various technical subjects. The FAA does not issue ground instructor ratings which are appropriate to teach air traffic control tower operator, aircraft dispatcher, parachute rigger, or mechanic applicants.

Since aviation safety and public interest demands that only persons who have demonstrated their technical knowledge and skill for a particular certificate should be qualified to provide instruction and certify competency for that certificate, the FAA believes the instructor must possess at least the same certificate and rating that the applicant is seeking to obtain. Accordingly, the proposal to amend § 65.19 is adopted as proposed with the revision discussed above.

Proposal 4–13. One commenter believed § 91.8 should be further expanded to include the prohibition against the interference with flight crewmembers before the aircraft is boarded. Since such a prohibition would be difficult to enforce and could give rise to jurisdictional problems, the FAA does not consider this prohibition a proper subject for rulemaking.

One commenter stated that proposed § 91.8(b) could apply to an aircraft owner who might ask the pilot to alter course or change destination. The commenter suggests clarifying the language. Another commenter expressed concern for the proposed wording of § 91.8(b) since it appears that a pilot examiner would be in violation by asking a private pilot applicant to divert from a course during a flight test. This was not the FAA's intent. The prohibition was directed toward unreasonable requirements, such as hijacking or requiring a change under duress. However, after further review, the FAA believes § 91.8(b) is not necessary since these acts are provided for in § 91.8(a). Accordingly, the proposal is adopted with the revisions discussed.

Proposal 4–14. No unfavorable comments were received on the proposal to revise § 91.15(a)(2). Accordingly, the proposal is adopted without substantive change.

Proposal 4–15. No unfavorable comments were received on the proposal to amend § 91.17. Accordingly, the proposal is adopted without substantive change.

Proposal 4–16. No unfavorable comments were received on the proposal to revise § 91.18(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4–17. No unfavorable comments were received on the proposed revision to § 91.43(b). Accordingly, the proposal is adopted without substantive change.

Proposal 4–18. One commenter disagreed with the proposed revision to § 91.52(d)(2) that would require the new expiration date for replacement (or recharge) of the emergency locator transmitter's battery to be entered in the aircraft maintenance record and suggested the use of a placard located inside the cabin as a better solution. The FAA believes that a maintenance record entry is a more reliable method of determining the replacement date than a placard. Accordingly, proposed § 91.52(d)(2) is adopted without substantive change.

Proposal 4–19. Several commenters contended that proposed § 91.73(d) would be too restrictive and does not allow sufficient discretionary authority to the pilot in command as to when the anticollision lights should or should not be lighted. They state that the use of a strobe light as an anticollision light would create an unsafe condition during certain aircraft operation such as taxiing, takeoff and landing, if the pilot did not have the option to turn it off except during adverse meteorological conditions.

In light of these comments and upon further review, the FAA agrees that there are instances when the use of a high intensity anticollision light could induce vertigo

and cause spatial disorientation. Accordingly, § 91.73(d) is revised to provide that the pilot in command may turn off the anticollision lights at any time in the interests of safety.

Proposal 4–20. One commenter does not believe the word "nearest" in proposed § 91.83(d) conveys the operational procedure presently used by the FAA, and suggested it be changed. In light of this comment, and after further review, the FAA believes that any restrictive term is unnecessary and could possibly discourage the filing of flight plans. Accordingly, the words "the nearest" in proposed § 91.83(d) are deleted and the word "an" inserted.

Proposal 4–21. One commenter objected to the wording of proposed § 91.173 on the ground that it places an unwarranted burden on the owner or operator to determine such items as revision date, airworthiness directive (AD) number, and if an AD involves recurring action, the time and date when the next action is required. The commenter further stated that § 91.173 places responsibility on the owner or operator for the content of Part 43 maintenance record entries made by persons authorized by the FAA.

The FAA believes that the owner or operator should be responsible for the retention of the required maintenance records for the specified periods and furnish such records to the person authorized by the FAA to accomplish the work. The FAA believes that the owner or operator should also ensure that the appropriate information as prescribed in § 91.173 is entered in the maintenance records. The intent of the proposal is to require the retention of more specific information relating to ADS and their compliance. In addition, each person authorized to perform the maintenance is only responsible for the content of the required record entries. Accordingly, the proposed revisions to § 91.173(a), (b), and (a)(2)(v) and the addition of new (b)(3) are adopted without substantive change.

Proposal 4–22. One commenter who supported the proposed § 91.189(b)(5) suggested that attachment points for the lifeline be permanently installed on the wings of the aircraft. The FAA believes current § 25.1411(g) adequately covers lifeline attachment. Accordingly, proposed § 91.189(b)(5) is adopted without substantive change.

Proposal 4–23. The only public comment received on the proposal to amend paragraph 2(a)(7) of Appendix A to Part 91 recommended that radio altimeters be incdluded in the proposed requirement but gave no further explanation. Since radio altimeters have markings at 20 feet or less intervals, the FAA believes that no reason exists at this time to include them in this amendment. Accordingly, the proposal is adopted without substantive change.

Proposal 4–24. No unfavorable comments were received on the proposal to revise § 105.15(b). Accordingly, the proposal is adopted without substantive change.

Proposal 4–25. One commenter supported proposed § 105.33(a) and (b) providing adequate exceptions exist for emergency situations, but did not state what type of exceptions he was referring to.

Another commenter contends that a light should not be displayed during free-fall because such a light decreases night vision and could possibly induce vertigo or spatial disorientation.

The FAA does not believe that such a light would significantly decrease night vision and induce vertigo or spatial disorientation. The FAA believes that a parachute jumper presents an object in the airspace from the instant the jumper exits the aircraft until the jumper reaches the surface. All that changes with the deployment of the chute is the speed the object is falling. A free-fall jump can extend through thousands of feet of airspace, presenting a hazard to air navigation. Accordingly, in the interest of safety, proposed § 105.33(a) and (b) are adopted without substantive change.

Proposal 4–26. No unfavorable comments were received on the proposal to amend § 105.43. Accordingly, the proposal is adopted without substantive change.

Proposal 4–27. No unfavorable comments were received on the proposal to revise § 121.11. Accordingly, the proposal is adopted without substantive change.

Proposal 4–28. No unfavorable comments were received on the proposal to amend § 121.26. Accordingly, the proposal is adopted without substantive change.

Proposal 4–29. No comments were received on the proposal to revise § 121.29(b). After further review, the FAA believes there is no current need for the proposed revision. Accordingly, proposed § 121.29(b) is withdrawn.

Proposal 4–30. No unfavorable comments were received on the proposal to amend § 121.47(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4–31. No comments were received on the proposal to revise § 121.53(e). After further review, the FAA believes there is no current need for the proposed revision. Accordingly, proposed § 121.53(e) is withdrawn.

Proposal 4–32. No favorable comments were received on the proposal to revise § 121.61(b)(1). Accordingly, the proposal is adopted without substantive change.

Proposal 4–33. No unfavorable comments were received on the proposal to amend § 121.135(b)(6) and (7). Accordingly, the proposal is adopted without substantive change.

Proposal 4–34. No unfavorable comments were received on the proposal to amend § 121.191(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4–35. The commenters to proposed § 121.309(b)(4) contend the proposal was unnecessarily redundant, served no useful purpose, and did not enhance safety. The commenters objected to this proposal from the standpoint that it would impose: (1) an unwarranted recordkeeping burden on operators utilizing an equipment control program that is controlled by hours or cycles and not by a specific inspection due date; (2) a risk of not having the inspection dates marked on the containers when equipment items were transferred from one ariplane to another; and (3) an additional task of changing inspection dates with possible resultant error.

In light of these comments and after further review, the FAA believes the proposal would possibly impose a burden not commensurate with its probable contribution to safety. Accordingly, proposed § 121.309(b)(4) is withdrawn.

Proposal 4–36. One commenter suggested the use of the phrase "no person" instead of "no passenger or crewmember" in proposed § 121.317(b). The FAA believes the phrase "no passenger or crewmember" is more definitive and the proposed wording is retained. Another commenter objected to the proposal on the grounds that there are instances when it is acceptable for cockpit crewmembers to continue to smoke and stated that this determination should be left up to the discretion of the cockpit crewmembers. The FAA disagrees. As a safety factor, flight crewmembers should be prohibited from smoking when the "no smoking" sign is lighted. Accordingly, proposed § 121.317(a) and (b) is adopted without substantive change.

Proposal 4–37. No unfavorable comments were received on the proposal to amend § 121.401(c). Accordingly, the proposal is adopted without substantive change.

Proposal 4–38. No unfavorable comments were received on the proposal to revise § 121.440(b)(2). Accordingly, the proposal is adopted without substantive change.

Proposal 4–39. Two comments were received on both proposed §§ 121.548 and 127.212 which discussed matters not proposed in Notice 76–28. These comments are beyond the scope of the Notice and cannot be considered without further notice and public participation. Accordingly, proposed § 121.548 and § 127.212 (Proposals 4–39 and 4–54 respectively) are adopted without substantive change.

Proposal 4–40. No unfavorable comments were received on the proposal to amend § 121.651(d)(2). Accordingly, the proposal is adopted without change.

Proposal 4–41. No unfavorable comments were received on the proposal to amend § 121.652(a). However, as stated in the preamble to Notice 76.,28, the FAA believes the flight time, in order to be credited, must be acquired in the same "type" airplane. Accordingly, the proposal is adopted by inserting the word "type" to further clarify the intent of the rule.

Proposal 4–42. No unfavorable comments were received on the proposal to amend § 121.697(e)(2). Accordingly, the proposal is adopted without substantive change.

Proposal 4–43. No unfavorable comments were received on the proposal to revise § 121.723(a) and (b). However, in order to avoid the reissuance of certificates at the conclusion of each assignment, the wording is changed so that the certificate is retained

until termination of employment with the carrier or operator. Accordingly, the proposal is adopted with the change discussed.

Proposal 4–44. No unfavorable comments were received on the proposal to add a new § 123.11(b)(3). Accordingly, the proposal is adopted without substantive change.

Proposal 4–45. No unfavorable comments were received on the proposal to add a new § 123.12. Accordingly, the proposal is adopted without substantive change.

Proposal 4–46. No unfavorable comments were received on the proposal to revise § 123.13. Accordingly, the proposal is adopted without substantial change.

Proposal 4–47. No unfavorable comments were received on the proposal to revise § 123.15(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4–48. No comments were received on the proposal to revise § 123.19(c). After further review, the FAA believes there is no current need for the proposed revision. Accordingly, proposed § 123.19(c) is withdrawn.

Proposal 4–49. No unfavorable comments were received on the proposal to revise § 123.27. Accordingly, the proposal is adopted without substantive change.

Proposal 4–50. No unfavorable comments were received on the proposal to revise § 123.41(a)(1). Accordingly, the proposal is adopted without substantive change.

Proposal 4–51. No unfavorable comments were received on the proposal to revise § 127.3. Accordingly, the proposal is adopted without substantive change.

Proposal 4–52. No comments were received on the proposal to revise § 127.21(b). After further review, the FAA believes there is no current need for the proposed revision. Accordingly, proposed § 127.21(b) is withdrawn.

Proposal 4–53. No unfavorable comments were received on the proposal to revise § 127.151(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4–54. For a discussion of comments relating to proposed § 127.212 and for the disposition of that proposal, see Proposal 4–39.

Proposal 4–55. No unfavorable comments were received on the proposal to revise § 127.219(b). Accordingly, the proposal is adopted without substantive change.

Proposals 4–56 through 4–60. These proposals are included in the Part 135 Regulatory Review Notice 77–17: Air Taxi Operators and Commercial Operators (42 FR 43490; August 29, 1977). Comments received on the proposed amendments to Part 135 in Notice 76–28 will be considered in conjunction with other comments received in response to Notice 77–17.

Proposal 4–61. No unfavorable comments were received on the proposal to amend § 137.19(e). Accordingly, the proposal is adopted without substantive change.

Proposal 4–62. No unfavorable comments were received on the proposal to delete Part 149 "Parachute Lofts" and transfer those requirements to a new Subpart E in Part 145. However, after further review, the FAA believes the incorporation of Part 149 into Part 145 as proposed would create redundancy in the rules and cause confusion. Accordingly, the proposal to amend Part 145 is withdrawn.

Proposal 4–63. No unfavorable comments were received on the proposal to revise § 145.17(b). After further review, the FAA believes the words "surrendered, suspended, or," should be reinserted between the words "sooner" and "revoked" in § 145.17(b) since they appear in current § 145.17(b). This oversight is corrected in the adopted rule since it was not a change intended by the proposal. Accordingly, the proposal to revise § 145.17(b) is adopted as proposed except for the revision discussed above.

Proposal 4–64. No unfavorable comments were received on the proposal to amend § 145.59(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4–65. No unfavorable comments were received on the proposal to revise § 147.31(c)(1) and to add a new § 147.31(c)(2). After further review, the FAA believes that the following editorial changes should be made: (1) in the proposed § 147.31(c)(1)(ii) the word "accreditation" is used in place of the word "certification" which appears in current § 147.31(c)(1). This oversight is corrected in the adopted rule since it was not the intent of the proposal to change the wording to accreditation; (2) the phrase "other than the crediting school" immediately following the word "accreditation" in proposed § 147.31(c)(1)(ii) was inadvertantly omitted and has been

included in the final rule. Accordingly, the proposal to revise § 147.31(c)(1) and to add a new § 147.31(c)(2) is adopted as proposed except for the revisions discussed above.

Proposal 4-66. Although there were no unfavorable comments to the proposed deletion and reservation of Part 149, the proposal is withdrawn for the reasons discussed in Proposal 4-62.

DRAFTING INFORMATION

The principal authors of this document are Thomas G. Walenta, Flight Standards Service, and Richard B. Elwell, Office of General Counsel.

ADOPTION OF THE AMENDMENTS

Accordingly, Parts 43, 61, 63, 65, 91, 105, 121, 123, 127, 137, 145, and 147 of the Federal Aviation Regulations (14 CFR Parts 43, 61, 63, 65, 91, 105, 121, 123, 127, 137, 145, and 147) are amended as follows, effective June 26, 1978.

(Secs. 313, 314, and 601 through 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and Sec. 6(c) of the Department of Transportation Act (41 U.S.C. 1655)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Amendment 65-24

Exhibition, Air-Racing, and Amateur-Built Aircraft: Airworthiness Certificate and Repairman Certification

Adopted: August 2, 1979 **Effective: September 10, 1979**

(Published in 44 FR 46778, August 9, 1979)

SUMMARY: These amendments provide for the issuance of experimental certificates for exhibition, air-racing, and amateur-built aircraft for periods longer than one year and for repairman certification of the primary builders of these aircraft, who may then perform the required condition inspection on such aircraft. The purpose of these amendments is to reduce, without any derogation of safety, the burden on certain experimental aircraft owners associated with annual recertification by the FAA.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, AVS-24, Safety Regulations Staff, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

BACKGROUND

These amendments to Parts 21 and 65 of the Federal Aviation Regulations (FAR) are based on a Notice of Proposed Rule Making (NPRM) issued as Notice 79-4 and published in the Federal Register on March 5, 1979 (44FR 12042).

Notice 79-4 proposed to extend the duration of experimental certificates for aircraft certificated for the purpose of exhibition, air racing, or operating amateur-built aircraft for a period longer than one year. It also proposed that primary builders of these aircraft be eligible for repairman certification.

Interested persons have been afforded on opportunity to participate in the making of these amendments and due consideration hav been given to all matter presented. Two hundred and twelve comments pertaining to the proposals were received and they are discussed below.

Present section 21.181(a) (3) provides that an experimental airworthiness certificate is effective for one year after the date of issuance or renewal, unless a shorter period is prescribed by the Administrator. Generally, this has meant that aircraft having experimental certificates are recertificated annually by FAA inspectors. This recertification process has included a condition inspection performed by the FAA.

A recent survey indicates that there are about 9,000 aircraft on the U.S. Registry certificated in the experimental category; approximately 7,000 of these are certificated for the purpose of exhibition, air racing, or operating an amateur-built aircraft. This large and ever-increasing number of experimental aircraft, particularly the amateur-built, has resulted in extended delays for many applicants seeking certification or recertification of their experimental aircraft.

Extending the duration of these experimental certificates will relieve this burden on aircraft owners by eliminating the annual recertification by the FAA. Experience with the present rule has shown that safety considerations do not require that FAA inspectors conduct the annual recertification inspection of such aircraft provided that they are inspected in a manner similar to aircraft certificated in a standard category. To ensure an adequate level of safety, the FAA will impose an operating limitation during certification requiring that, at least once a year, the aircraft receive a condition inspection in accordance with Appendix D of FAR Part 43 and be found to be in a safe condition, and that an entry recording that inspection be made in the aircraft's maintenance records.

These inspections will be able to be conducted by a certificated mechanic holding an airframe and powerplant rating (A & P mechanic) or an appropriately rated repair station. In addition, these amendments will further reduce the burden on some owners by providing for the repairman certification under Part 65 of certain aircraft builders. If a person qualifies for certification, that individual will be allowed to perform the condition inspection on the aircraft that person has built. The builder's certification as an airman is required to satisfy Section 610 (a) (2) of the Federal Aviation Act of 1958 which makes it unlawful for any person to serve in any capacity as an airman without an airman certificate authorizing him to serve in this capacity.

These amendments are issued in accordance with Executive Order 12044 and the Department of Transportation's Regulatory Policies and Procedures which are intended to reduce the unnecessary burdens of regulation on the public.

DISCUSSION OF COMMENTS

A majority of the comments received in response to Notice 79–4 contained a recommendation that the duration of experimental certificates for amaueur-built, exhibition, and air-racing aircraft be permanent or for an indefinite period. Other commenters suggested that the duration of the certificates be for the length of time the aircraft is owned by the builder while some others would specify a certain number of years. The FAA agrees that once the aircraft has been shown to pose no hazard to the general public it should be certificated for an unlimited time. Since most experimental aircraft do not conform to an FAA approved type design and must be subject to a trial period of operation, the initial period of certification must necessarily be of limited duration. The FAA certificating inspector must retain the latitude needed to establish the initial certification period based on personal inspection of the aircraft and data presented by the applicant. Thereafter, following the initial certification and successful operation within the assigned flight test area for a specified period of time, it is the FAA intent that amateur-built, air racing, and exhibition aircraft be given an experimental certificate of unlimited duration. The rule therefore provides that such aircraft will be certificated for an unlimited period unless the Administrator finds for good cause that a specific period should be established.

The FAA will monitor the safety record of the aircraft certificated under this new rule. Should it appear at any time in the future that certificates of specific duration are required in order to safeguard the general public, appropriate rule making action will be taken.

One commenter objected to the proposal on the ground that it was unsafe. His major concern was that the work on these aircraft be accomplished by an A & P mechanic or under his direct supervision. As an alternative to the proposal contained in Notice 79–4, the commenter suggested that the construction of experimental aircraft be under the craftsmanship or direct supervision of a certificated mechanic, and that a mechanic holding an inspection authorization rating reissue the experimental certificate at the

time of the annual inspection which would be conducted by such an inspector. The FAA has had a long-time policy of encouraging assistance of qualified private persons during aircraft construction and believes that amateur-aircraft builders should continue to utilize those persons if the need arises. A delegation of authority for issuance of experimental certificates, however, is not warranted. The FAA wishes to retain the responsibility for certification, including a determination that the aircraft is in a condition for safe operation, and for prescribing appropriate operating limitations. With respect to the conduct of the annual recurring condition inspection, the FAA has concluded that an inspection by the original builder if he holds a repairman certificate, an A & P mechanic, or a repair station holding appropriate ratings can provide a satisfactory level of safety.

As suggested above, the FAA concurs with the suggestion of several commenters that appropriately rated repair stations be allowed to conduct the annual inspection. No additional rule change is required to implement this decision.

In order to increase the time available to FAA inspectors for other required functions, one commenter suggested that A & P mechanics perform the in-progress construction inspections. He also objected to the issuance of repairman certificates to "so-called aircraft builders," many of whom, he contended, do not build the aircraft and lack building and maintenance skills. It is during the in-progress inspection that FAA inspectors can concurrently inspect the aircraft and begin their assessment of the builder's skills and qualification for repairman certification. Only qualified builders will be certificated. Thus, it is important that the FAA maintain its inspection role during aircraft construction. This commenter's contention that the repairman certification process and repairman surveillance will be a drain on the FAA inspectors' time is rejected. As already noted, much of this one-time determination of qualification will be made during the construction.

One commenter suggested that A & P mechanics were not sufficiently qualified to make the required condition inspection of certain sophisticated aircraft, such as ex-military and jet aircraft, and suggested that a mechanic holding inspection authorization should be required in these cases. Another commenter suggested that certificated mechanics with inspection authorization be required in all cases. The FAA disagrees. The scope of the recurring condition inspection is the same as that required for a 100-hour inspection of standard category aircraft. Since A & P mechanics have long been permitted to conduct 100-hour inspections, there is no reason to doubt their ability to conduct this inspection of experimental aircraft. Furthermore, under § 65.81 a certificated mechanic may perform only the maintenance for which he is rated and that only if he has satisfactorily performed the work concerned at an earlier date.

Several commenters objected to the issuance of a repairman certificate to the original builder of an amateur-built aircraft. Their concern was that the builder may have no experience in the inspection or detection of conditions causing or leading to defects in the aircraft. They also stated that, for the most part, the amateur-aircraft builder lacks the facilities and equipment necessary to maintain the aircraft, and therefore the annual inspection should be conducted by an authorized inspector. Those original builders who obtain repairman certification will have demonstrated, to the satisfaction of the FAA, sufficient knowledge and skill to allow them to inspect the aircraft they have built. The concern over lack of facilities is not valid. Under the present rule, the FAA inspector conducts the recertification inspection, for the most part, using the same facilities and equipment available to the aircraft owner.

Another commenter objected on two grounds. First, he asserted that having built a part of the aircraft does not qualify a person to inspect all of that aircraft. For example, he noted that while a home-built constructor may actually have built only a part of the airframe, his repairman certificate would permit him to inspect a powerplant, electrical, or hydraulic component of which he may not have sufficient knowledge. In this connection the scope and detail of the Part 43, Appendix D, inspection does not require extensive knowledge of such systems. It should be noted that in the case of repair stations, one which has only an appropriate airframe rating may conduct the inspection. Second, he objected to the fact that the FAA was turning over much administrative work to the general public rather than to a professional member of the aviation community. In fact, as a result of the adoption of these amendments there should be less administrative work since there will be no need for the owner to make annual application for recertification.

One commenter objected to the proposal on the ground that its adoption will impose a financial burden on owners who are not the original builders. Additional cost will be required for condition inspections. However, it is the conclusion of the FAA, apparently supported by most commenters who support the proposal, that such cost will be more than offset by relief from the time delays associated with seeking recertification of their aircraft by the FAA and by the added flexibility made available for selecting the time and place of inspection.

In a related matter, several commenters suggested that the services of an FAA inspector be available to owners of amateur-built aircraft who are not the original builders when they are unable to secure an inspection from a certificated A & P mechanic. In those cases where an owner can show inability to get an inspection, he may apply for the services of an FAA inspector. In addition an owner may also utilize an appropriately rated repair station to perform the required inspection.

Several commenters proposed that Experimental Aircraft Association designees be authorized to perform the condition inspection. As in the case of those owners who are not the original builders, the FAA would not have a standard by which to judge the knowledge and skills of these persons.

Two commenters suggested that persons who have constructed an aircraft from a kit should not be eligible for a repairman certificate. Furthermore, one of these commenters stated his belief that a repairman certificate should only be issued to a builder whose workmanship is of acceptable quality. It should be noted that according to Advisory Circulars 20-27B, dated April 20, 1972, and 20-28A, dated December 29, 1972, aircraft which are merely assembled from kits composed completely of prefabricated components and parts, and pre-cut pre-drilled materials, are not eligible for certification as amateur-built aircraft, since the major portion of the aircraft would not have been fabricated and assembled by the builder as is required by FAR § 21.191(g). Although there is not a specific quality of workmanship requirement for receiving a repairman certificate, this is implicit in requiring that a person demonstrate to the satisfaction of the Administrator the requisite skill to determine whether the aircraft is in a condition for safe operation.

Several commenters suggested that a repairman certificate be made available to all owners of amateur-built aircraft after they demonstrate the required level of knowledge and skill needed to maintain their aircraft. Extending repairman certification to all owners of amateur-built aircraft would be impracticable because the FAA does not have a standard by which to judge the knowledge and skills of owners who have not built their aircraft. The FAA conducts inspections of amateur-built aircraft at various stages of their construction. In this way, the builder is able to demonstrate the knowledge and skills considered necessary for conducting an inspection and determining that the aircraft will be in a condition for safe operations.

Because this observation of the builder and his work is the essential means for determining a builder's knowledge and skill required for issuance of a repairman certificate, the FAA rejects the suggestion of one commenter that a written examination be required. If such an examination is considered necessary, it can be required by administrative means; a regulation is not required.

One commenter suggested that once issued a repairman certificate on the basis of having built an amateur-built aircraft, a person should be allowed to inspect other amateur-built aircraft. Another commenter stated that the condition inspection should be able to be performed by any amateur builder who had built an aircraft of the same type. The FAA cannot accept these suggestions. Although many amateur-built aircraft may be of similar type, they are not fabricated to a type design or specification and the builders frequently make changes based on personal desires or the availability of materials. These changes are often significant. Thus, the original builders may possess the expertise to inspect the aircraft they have built but not one built by another person or one of similar type.

Several commenters requested that the original builder of an amateur-built aircraft be allowed to continue to conduct the required inspection of the aircraft after its sale to a new owner, if the new owner so desired. Although the proposal did not address the situation directly, it was intended that the qualified original builder be allowed to continue to inspect the aircraft after its sale, at the request of the new owner.

Several commenters suggested a "grandfather" clause be applied to the issuance of repairman certificates to allow present amateur-built owners who are not the builders of

the aircraft to be eligible for a repairman certificate. These commenters believe that since they have been performing their own maintenance and repairs under the present rule they should be qualified to perform the annual condition inspection under the new rule. A "grandfather" clause for amateur-built owners who are not the builders is not warranted. The nonbuilders do not have the privilege of performing the annual condition inspection under the present rule; therefore, they cannot be "grandfathered" to perform it under the new rule. As previously stated, the original builders are the ones who most likely will possess the expertise to inspect the aircraft they have built. To issue repairman certificates to amateur-built aircraft owners who are not the builders on the basis of their performing maintenance would require that the FAA issue repairman certificates to the present owners of exhibition and air-racing aircraft for the same reason. This would not be in the interest of safety.

One commenter proposed that the original builder be allowed to sign-off the recurring inspection and repairs performed by subsequent owners. As stated above, it is not in the interest of safety to allow nonbuilders to conduct the required inspection. Furthermore, while the FAA recognizes that qualified original builders have sufficient expertise to perform the inspection, it does not necessarily follow that they are sufficiently qualified to approve or disapprove another person's maintenance.

Several commenters proposed deletion of the citizenship requirement to be eligible for a repairman certificate. One of the commenters is a Canadian citizen who was admitted to the U.S. as a permanent resident and now holds an FAA Repairman Certificate. It is also noted that Section 501(b) of the Federal Aviation Act of 1958 was recently amended to allow an individual citizen of a foreign country who has been admitted to the United States as a permanent resident to register aircraft. Therefore, proposed section 65.104(a)(4) is revised to provide for the issuance of a repairman certificate to an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States.

Two commenters suggested an annual inspection certificate be executed by the person performing the condition inspection. The original would be contained in the logbook with a copy sent to the local district office. An annual inspection certificate is not deemed necessary. The amendment provides for the FAA to impose operating limitations requiring the condition inspection to be reached in the aircraft's maintenance records. In the case of standard category aircraft, no certificate is issued. An entry is made in the maintenance records. This should be sufficient for experimental aircraft. However, in line with these comments, the FAA does make available an annual inspection reminder. This reminder is a decal which is secured in a conspicuous area in the aircraft and reminds the operator of the next inspection date.

One commenter suggested that the FAA perform spot checks to ensure the quality of maintenance and condition inspections of these experimental aircraft. This is an ongoing function of the FAA as to all aircraft and such surveillance will continue.

Several commenters suggested revising the applicapility of Part 43 to include experimental aircraft and to require that they be inspected in accordance with Part 91. Applying such restrictions would be contrary to the intent of the amateur-built aircraft program, which is fabricating and assembling an aircraft for educational or recreational purposes. In addition, many exhibition and air-racing aircraft are ex-military aircraft and applying Parts 43 and 91 to them would be excessively restrictive on their owners.

One commenter expressed his belief that an advisory circular giving inspection guidelines is needed. While advisory material is going to be released concerning these amendments, no inspection guidelines advisory circular is planned. Appendix D of FAR Part 43 is considered to be adequate.

One commenter suggested that an airworthiness certificate be renewed by an FAA inspector or a certificated mechanic holding an inspection authorization if there is a lapse in the recurring condition inspections to prevent the sale of an unsafe aircraft to an unsuspecting person. Such a provision in the regulation is not needed. The operating limitations will not permit flight of an aircraft unless during the previous twelve months it has been inspected and found to be in safe condition.

Several commenters suggested that the repairman certificate be issued after the aircraft has flown off its initial restriction. While it is anticipated that the certificates will be issued at this time, such a decision is being retained as a matter for policy determination.

One commenter also wanted to require that the owner be in possession of the applicable service manuals and plans before repairman certification. Since some amateur-built aircraft do not even have plans, such a regulation is not considered appropriate.

Two commenters made proposals, neither of which is related to the rule changes proposed in Notice 79–4. One suggested that an experimental certificate be converted to a standard airworthiness certificate after a specified period of satisfactory operation and inspection. The FAA cannot accept this proposal. Standard category airworthiness certificates are issued only after an exacting and detailed finding that the design meets specific regulatory requirements. The mere operation of an experimental aircraft with limited inspections falls far short of the detailed compliance findings required for issuance of a standard airworthiness certificate.

The other commenter proposed to amend § 21.191 to permit the issuance of experimental certificates for the purpose of operating certain nonstandard aircraft for recreation. A similar proposal by that commenter in the form of a petition for rule making has already been denied.

ADOPTION OF THE AMENDMENT

Accordingly, Parts 21 and 65 of the Federal Aviation Regulations (14 CFR Parts 21 and 65), are amended effective September 10, 1979.

(Sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1422; sec. 6(c) of the Department of Transportation Act 49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the Final Regulatory Evaluation is filed in the Public Docket. Copies of this evaluation may be requested from Raymond E. Ramakis, Regulatory Projects Branch, AVS-24, Safety Regulations Staff, Federal Aviation Administration, 800 Independence Ave., S.W., Washington, D.C. 20591; telephone (202) 755–8716.

Amendment 65-25

Air Traffic Control Tower Operators: Medical Standards

Adopted: March 17, 1980 **Effective: April 23, 1980**

(Published in 45 FR 18911, March 24, 1980)

SUMMARY: This regulation excepts air traffic control tower operators who are employed by the FAA from the requirement that they hold a second class medical certificate. This revision is necessary to avoid the application of two different programs for physical qualification to FAA employees.

FOR FURTHER INFORMATION CONTACT:

Edward Harris, Data Systems Management Division (AMS-300), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 426-8067.

SUPPLEMENTARY INFORMATION:

An air traffic control tower operator is an airman, as defined in section 101 of the Federal Aviation Act of 1958 (the Act). In accordance with section 602 of the Act, the Administrator, in issuing an airman certificate to an applicant, determines whether the applicant is physically able to perform the duties pertaining to the position for which the airman certificate is sought. In accordance with this statutory mandate, § 65.33 of the Federal Aviation Regulations (14 CFR 65.33) requires that an applicant for an air traffic control tower operator certificate hold a second class medical certificate issued under Part 67, Medical Standards and Certification (14 CFR Part 67).

Even though other FAA employees with air traffic control (ATC) duties (enroute air traffic controllers and flight service station operators) are not airmen, as difined in he Act, the FAA has also required these persons to meet physical standards. A physical qualification program for all FAA ATC personnel, including control tower operators, was developed by the Civil Service Commission in the early 1960's. The availability of forms and guidelines that were being used in connection with Part 67 facilitated the administration of this program.

Recently, the agency requested the Office of Personnel Management to revise the physical standards for retention of ATC personnel. The proposed new standards further differentiate between requirements applicable to FAA personnel and the certification requirements in Part 67.

In order to avoid the application of two different programs for physical qualification to FAA employees, this amendment revises §§ 65.31 and 65.33. It excepts FAA employees from the requirement to hold a second class medical certificate in order to be eligible for, and to exercise the privileges of, an air traffic control tower operator certificate.

Part 65 still requires that non-FAA control tower operators hold second class medical certificates. Section 61.23(b)(1) is being revised to make clear the 12-month duration of the second class medical certificate as it applies to these non-FAA control tower operators.

ADOPTION OF THE AMENDMENT:

Accordingly, Parts 61 and 65 of the Federal Aviation Regulations (14 CFR Parts 61 and 65) are amended effective April 23, 1980.

(Secs. 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. § 1354(a), 1421, and 1422); and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. §§ 1655(c)).)

NOTE—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the regulation is so minimal that it does not require an evaluation.

Amendment 65-25A

Air Traffic Control Tower Operators: Medical Standards

Adopted: April 17, 1980 **Effective: May 7, 1980**

(Published in 45 FR 22745, April 24, 1980)

SUMMARY: This action delays the effective date of Amendments Nos. 61-68 and 65-25 to the Federal Aviation Regulations which except air traffic control tower operators who are employed by the FAA from the requirement that they hold a second class medical certificate. This delay is necessary for administrative reasons.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward Harris, Office of Management Systems (AMS-300), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 426-8067.

SUPPLEMENTARY INFORMATION:

On March 17, 1980, the FAA issued Amendments Nos. 61-68 and 65-25 (45 FR 18911; March 24, 1980). Amendment No. 61-68 revises §§ 65.31 and 65.33, to except FAA employees from the requirement to hold a second class medical certificate in order to be eligible for, and to exercise the privileges of, an air traffic control tower operator certificate. Amendment No. 65-25 revises § 61.23(b)(1) to make clear the 12-month duration of the second class medical certificate as it applies to non-FAA control tower operators.

The FAA has determined that a delay in the effective date of these amendments is necessary for administrative reasons.

CHANGE OF EFFECTIVE DATE

Accordingly, the effective dates of Amendments Nos. 61-68 and 65-25 to Parts 61 and 65 of the Federal Aviation Regulations (14 CFR Parts 61 and 65) are changed to May 7, 1980.

(Secs. 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. §§ 1354(a), 1421, and 1422); and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. § 1655(c)).)

NOTE—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the regulation is so minimal that it does not require an evaluation.

Amendment 65-26
Operations Review Program: Amendment No. 9
Adopted: July 1, 1980 Effective: September 9, 1980

(Published in 45 FR 46736, July 10, 1980)

SUMMARY: These amendments update and improve certain requirements applicable to general operations and flight, to airmen other than flight crewmembers, and to domestic, flag, and supplemental air carriers and commercial operators of large aircraft. These amendments are part of the Operations Review Program and are based on a compilation of proposals discussed at the Operations Review Conference.

FOR FURTHER INFORMATION CONTACT: Mr. Norman C. Miller, Regulatory Review Branch, AVS-22, Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 755-8714.

SUPPLEMENTARY INFORMATION:

History

This amendment is issued as part of the Operations Review Program. The following amendments have previously been issued as part of this program:

	Title and Federal Register (FR) Citation
Amendment No. 1:	Clarifying and Editorial Changes (41 FR 47227; October 28, 1976).
Amendment No. 2:	Rotorcraft External-Load Operations (42 FR 24296; May 12, 1977 and 42 FR 32531; June 27, 1977).
Amendment No. 2A:	Special Federal Aviation Regulation No. 36, Development of Major Repair Data (43 FR 3084; January 23, 1978).
Amendment No. 3:	Airspace, Air Traffic, and General Operating Rules (44 FR 15654; March 15, 1979).
Amendment No. 4:	Miscellaneous Amendments (43 FR 22636; May 25, 1978).
Amendment No. 5:	Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft (43 FR 22643; May 25, 1978, 43 FR 28403; June 29, 1978, and 44 FR 25201; April 30, 1979).
Amendment No. 6:	General Operating and Flight Rules and Related Airworthiness Standards and Crewmember Training (43 FR 46230; October 5, 1978).
Amendment No. 10:	Airworthiness, Equipment, and Operating Rules (44 FR 61323; October 25, 1979).

These amendments are based on Notice of Proposed Rule Making 78-11 published in the Federal Register on August 17, 1978 (43 FR 36464). Interested persons have been given an opportunity to participate in the making of these amendments and due consideration has been given to all matters presented. A number of substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and upon further review by the FAA. Except for minor editorial and clarifying changes and the substantive changes discussed below, these amendments and reasons for their adoption are the same as those contained in Notice 78-11.

Discussion of Comments

The following discussions are keyed to the like-numbered proposals contained in Notice 78-11.

Proposals 9-1 and 9-2. These proposals would allow applicants for a flight engineer certificate, or for an additional class rating on an existing certificate, to complete the flight

portion of the practical test and to gain operational experience in an approved simulator for the type of aircraft on which the applicant would serve. The comments received reflected many inconsistencies in these proposals, such as: (1) whether the Flight Engineer Certificate would be issued after the practical test or after completion of the operating experience; (2) that there were no guidelines established for an approved simulator under Part 63; (3) that there were no qualifications specified for the position of a "check flight engineer"; and (4) that § 121.434 requires initial operating experience to be obtained on an airplane and has not been amended to allow such experience to be gained in a simulator. Therefore, § 121.434 is compatible with § 63.40. Correction of these inconsistencies would result in what is, in effect, a new rule upon which the public has not had the opportunity to comment. These proposals are withdrawn for further study.

Proposal 9-3. This proposal would exempt an applicant for a flight engineer certificate, employed by a Part 121 certificate holder, from the 10-hour flight training requirement in Appendix C of Part 63 if that applicant successfully completes an approved training program and is recommended by an instructor.

Paragraph (a)(3)(iv)(b) of Appendix C of Part 63 already allows an applicant, who holds at least a commercial pilot certificate with an instrument rating, to substitute training received in either a training device or simulator for up to all the required 10 hours of airplane time. A Part 121 certificate holder can take advantage of the reduced flight time provisions by applying for such a course under the provisions of § 63.43. The FAA considers the requirements of Appendix C of Part 63 to be the minimum training required for a flight engineer certificate.

After comprehensive review of the proposal and all comments, and recognition of the relative ease by which a Part 121 certificate holder can obtain a Part 63 flight engineer training course and the FAA policy to simplify and streamline regulations, further relief is unnecessary and the proposal is withdrawn.

Proposal 9-4. All comments favor the deletion of § 65.15a, which allows the reissuance of certificates without expiration dates to persons who are not U.S. citizens, and it is deleted and reversed.

Proposal 9-5. All commenters favor the change to § 65.81, "General privileges and limitations," which adds the words "preventive maintenance" to this section to make it consistent with § 43.3 which authorizes persons to perform maintenance, preventive maintenance, rebuilding and alterations, and it is adopted without substantive change. This extends the present privileges and limitations for maintenance, rebuilding, and alterations to preventive maintenance and § 65.81 is adopted without substantive change.

Proposal 9-6. A majority of commenters favor adoption of § 65.93 which provides additional qualifying activities for renewal of inspection authorization (IA) including recurrent training. Several commenters recommend that performance of inspections under § 91.217 be included as an additional qualifying activity for IA renewal. A certificated mechanic may perform inspections under § 91.217, but they are not inspections that must be performed only by a person holding an IA. The eligibility for renewal of an IA should not be determined on the basis of § 91.217 inspections but should be based on those inspections which only an IA may do.

One commenter suggests that the person holding an IA should present a list of the aircraft that person inspected during the previous year as evidence of that person's activity. Section 65.93 does not require a list. This requirement would impose additional and unnecessary recording requirements on the IA applicant.

Accordingly, § 65.93 is adopted without substantive change.

Proposal 9-7. All commenters favor § 65.103 which: (1) extends to certificated repairmen the privileges of performing preventive maintenance or alterations already authorized under § 43.3(a); (2) replaces the phrase "maintenance manual" in § 65.103(b) with the phrase "instructions for continued airworthiness" for consistency with the concept of continued airworthiness used throughout the FAR (Parts 43, 121, 127 and 135) and because instructions may exist in documents other than maintenance manuals; and (3)

replaces the phrase "repair station, commercial operator, or air carrier" with the phrase "certificate holder" since all of the listed organizations are certificated holders. Section 65.103 is adopted without substantive change.

Proposals 9–8 and 9–9. Sections 121.97 and 121.117 would require the certificate holders to establish and maintain an approved system to obtain, disseminate and use, on a continuous basis, current aeronautical data for each airport the holders serve. One commenter objects to requiring airport data stating it is unnecessary, unrealistic, should be withdrawn, and that many of the requirements are not clearly stated. Another commenter states that the sections duplicate information now provided for FAA airport certification. A third commenter states that the requirement for an approved system involves the decision of a principal operations inspector, who has little or no guidance on which to base the approval.

The FAA has determined that expansion of the present rules to describe the airport data and provide an approved system for its collection and dissemination is necessary. Present rules do not adequately describe the airport data which the air carrier must have available. In addition, National Transportation Safety Board (NTSB) Report 72–17 (Pan American World Airways Boeing 747 San Francisco, CA; July 30, 1971) states that "irregularities involving the collection and dissemination of airport information" cause the air carrier operational control systems to be ineffective.

No comments were received on the proposed 1-year compliance date. Under the requirements of §§ 121.97 and 121.117, each certificate holder must have an approved system for obtaining, maintaining, and distributing the current aeronautical data specified in §§ 121.97(b) and 121.117(b). The FAA estimates that, depending on the size and complexity of each certificate holder's operation, it will take approximately 6 months to gather the required information and another 6 months to design, establish, and gain approval of such a comprehensive system. Accordingly, §§ 121.97 and 121.117 take effect 1 year after the effective date of these amendments. Although these sections may duplicate some information required for airport certification under Part 139, a comprehensive system ensures that the air carrier has adequate airport and other data available for safe operation. To provide guidance for the principal operations inspectors and the public in obtaining approval of this system, an advisory circular will be issued. After considering the comments, §§ 121.97 and 121.117 are adopted without substantive change.

Proposal 9–10. This proposal would require all Part 121 certificate holders to provide guidance in their operations manuals to enable their flight and ground operations personnel to recognize and handle packages containing hazardous materials. One commenter objects to § 121.135(b)(23) stating it is unnecessary, unrealistic, and should be withdrawn. The commenter argues that training programs now exist for air carriers that carry hazardous material and to require training for those operators not engaged in the carriage of that cargo is a waste of time. The rule requires that Part 121 certificate holders who do not carry hazardous materials have procedures and instructions of sufficient detail to ensure that their employees can recognize shipments of these materials and refuse to accept them. This reduces the possibility of the carrier inadvertently carrying them. No comments were received on the proposed 90-day compliance date. Ninety days allow adequate time for the operator to include these procedures and instructions in their operations manuals. Accordingly, § 121.135(b)(3) is adopted without substantive change.

Proposal 9–11. All commenters support § 121.137. This proposal requires each person to whom a manual or appropriate parts of it are furnished, to have it accessible when performing assigned duties. One commenter wants the words "each person" changed to "each crewmember" and wants to require the crewmember to carry or have the manual or appropriate parts available for other persons to use. The manual contains company procedures and guidance for both crewmembers and ground personnel. The rule does not restrict its use to crewmembers. The manual must be accessible to every person when performing assigned duties. Accordingly, § 121.137 is adopted without substantive change.

Proposal 9–12. All comments support § 121.161(a) to require certificate holders to comply with the same route and airport restrictions for passenger and cargo operations. Section 121.161(a) is adopted without substantive change.

Proposal 9-13. All comments support § 121.163 that allows a reduction of proving tests if a satisfactory level of proficiency is demonstrated. Section 121.163 is adopted without substantive change.

Amendment to § 91.33

Amendment No. 91-154 (43 FR 46230; October 5, 1978) amended § 91.33 to require that after December 4, 1980, each safety belt in an aircraft must be equipped with an approved metal to metal latching device. As discussed in the preamble to that amendment, the FAA intended to allow 3 years to install the metal to metal latching devices. However, the compliance period was inadvertently set at 2 years. This amendment corrects the discrepancy by setting a 3-year compliance period. Since this amendment is relaxatory and clarifying in nature and does not impose a burden on the public, I find that notice and public procedure are unnecessary and that good cause exists for adopting this amendment.

Amendment to § 121.220

Amendment No. 121-154 (45 FR 3880; January 21, 1980) incorrectly designated the cabin zone concentration requirements as § 121.220, placing them in Subpart J, Special Airworthiness Requirements. The proper location for this requirement is in Subpart T, Flight Operations, since it is an operational requirement. Accordingly, § 121.220 is redesignated as § 121.578.

Adoption of the Amendments

Accordingly, Parts 65, 91, and 121 of the Federal Aviation Regulations (14 CFR Parts 65, 91, and 121) are amended effective September 9, 1980.

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

NOTE—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the person and address listed under "For Futher Information Contact."

Amendment 65-27

Miscellaneous Amendments

Adopted: February 26, 1982 **Effective: April 28, 1982**

(Published in 47 FR 13312, March 29, 1982)

SUMMARY: These amendments make a number of minor changes to the Federal Aviation Regulations (FAR). They amend certain Parts to change prerequisites required for flight tests and the experience necessary for an airline transport pilot certificate. They change the validity period for the written test for a flight engineer certificate. In addition, they amend certain sections of the FAR by changing the word aircraft to airplane. Part 45 of the FAR is amended to permit an approved parts manufacturer to refer, on a tag, to readily available information when it would be impractical to mark the required eligibility information on the tag. Part 91 of the FAR is amended to delete the list of purposes for which a special flight authorization for foreign civil aircraft may be issued. Other sections are amended for purposes of clarification or correction.

FOR FURTHER INFORMATION CONTACT: Mr. E. Wendell Owens Regulatory Review Branch (AVS-22), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Background

A number of these amendments address problems in the FAR which have been highlighted by numerous requests for exemptions and extensions of compliance dates. In addition, several areas in the FAR require interpretation and clarification. The remaining changes are editorial.

Generally, these amendments address unrelated items that have accumulated over recent years and are appropriate for consolidation in a miscellaneous amendment package.

Discussion of Comments

The following discussions are keyed to like-numbered proposals contained in Notice 80-23 (45 FR 80450; December 4, 1980).

Proposal 1. The proposal to amend § 21.197 to make Part 135 operators eligible for special flight permits with continuing authorizations was disposed of separately in Amendment 21-54 (46 FR 37876; July 23, 1981).

Proposal 2. This proposal would correct an incomplete listing of sections. The correct sections are listed in Appendix A, Section A23.1(a), as §§ 23.321 through 23.459. No comments were received on this proposal. Accordingly, the proposal is adopted without substantive change.

Proposals 3 and 9. Sections 23.305(a) and 25.305(a) contain parallel requirements for structural strength and deformation; however, these include differences in wording and punctuation from the corresponding statements contained in the similar, but correctly stated §§ 27.305(a) and 29.309(a). These proposals would correct §§ 23.305(a) and 25.305(a) by making them consistent with §§ 27.305(a) and 29.305(a). One commenter points out that the word "or" was erroneously inserted at the time CAR 6 and 7 were recodified to Parts 27 and 29 of the FAR. The commenter further states that §§ 23.305 and 25.305 are correctly stated, and that §§ 27.305(a) and 29.305(a) (which have the word "or" inserted) should be revised accordingly.

As originally written, the word "detrimental" was used to quantify the amount of permanent deformation and prohibit acceptance of a loading test which resulted in deforming the tested article to an extent that would degrade its structural charateristics. Insertion of a comma or a conjunction between "detrimental" and "premanent" would change the intended meaning. Inasmuch as the proposed change would only add to the error, the proposals to amend §§ 23.305 and 25.305 are withdrawn.

Proposal 4. This proposal would rearrange paragraphs (a)(1), (a)(2), and (a)(3) of § 23.441 to ensure that the correct tail load distribution is imposed for the flight condition. One commenter points out that the desired correct correlation between load specifying figures in Appendix B and the alternate load requirements of §§ 23.441(a), (b), and (c) could also be accomplished by leaving (a)(1), (a)(2), and (a)(3) in their present order while changing B6, B7, and B8 to B7, B6, and B8. Inasmuch as the interchange of the numbers 6 and 7 occurred initially when the prefix letter B was added in Amendment No. 23–7, August 13, 1969, and because other printings of Part 23 use the order B7, B6, and B8, the FAA disagrees with the commenter. Accordingly, the proposal is adopted without substantive change.

Proposal 5. This proposal would amend § 23.472(f) to delete reference to § 23.725 and insert the reference to § 23.723(a) in its place. This proposal would permit drop tests other than the free drop tests, and would make the requirement consistent with corresponding sections of Parts 25, 27, and 29. No comments were received on this proposal. Accordingly, the proposal is adopted without substantive change.

Proposal 6. No comments were received on the proposal to insert the word "red" before the word "arcs" in § 23.1549(d), for consistency with § 25.1549(d). The proposal is adopted without substantive change.

Proposal 7. This proposal would correct a reference to § 23.201(b) in § 23.1587(a)(1).

The reference to § 23.201(a) or (b) in § 23.1587(a)(1) is incorrect. Reference to § 23.201(a) as proposed in Notice 80–23 is also incorrect. Both references are for paragraphs dealing with control configurations. Section 23. 201(c) deals with a maneuver as intended in § 25.1587(a)(1).

Two commenters suggest that the altitude loss information required by § 23.1587(a)(1) should be required for all airplanes regardless of whether or not they have independent controls. The FAA agrees and has amended § 23.1587(a)(1) to reference § 23.201(c) which applies to all airplanes regardless of their control configuration. The section is amended accordingly.

Proposal 8. This proposal would correct errors contained in the equation constants noted under A23.3, Special Symbols.

No comments were received on the proposal to correct the numbers in the velocity equations which will then correctly reflect the change from miles per hour to knots. This proposal is adopted without substantive change.

Proposal 10. This proposal would amend § 25.807 to make it clear that all transport category aircraft must have ditching emergency exits whether or not ditching certification is requested.

One commenter objects to the application of the ditching (emergency exit) requirement to all Part 25 and Part 29 aircraft. The commenter states that the ditching provisions of §§ 25.807 and 29.807 do not apply unless requested. This commenter also directs attention to Notice 80–23 which solicits economic information on these regulations.

Another commenter expressed full support of the proposal. This proposal is intended to clarify the existing regulation and does not establish a new requirement for transport category airplanes. Accordingly, the proposal is adopted without substantive change.

Proposal 11. No comments were received concerning these proposed minor editorial changes. Accordingly, the proposal is adopted without substantive change.

Proposal 12. This proposal would amend § 29.807 to make it clear that all transport category aircraft must have ditching emergency exits whether or not ditching certification is requested.

A commenter states that helicopters not certified for ditching will probably capsize immediately when rotor lift is lost because of their high center of gravity and lack of lateral stabilizing appendages such as wings. This commenter also claims that, because of the additional factor that compartments are not usually water-tight, it is impossible to determine a waterline. The commenter recommends the proposal be cancelled.

Two commenters strongly object to this proposal on the basis that the extension of the transport airplane condition to a helicopter is illogical because of the unique characteristics of helicopters. The commenters point out that the FAA previously considered this question and agreed that the proposed requirement was inappropriate.

Since the time this question was previously considered, there has been no new evidence which would justify a change in rationale, nor has there been any new evidence pointing to a need for added rotorcraft ditching exit provisions. Accordingly, this proposal is withdrawn.

Proposal 13. This proposal would have made Part 43 internally consistent by amending § 43.4 to include Canadian persons authorized under § 43.17. Operations Review Program Notice No. 12 proposes changes to § 43.3. Accordingly, this proposal is withdrawn and will be acted upon as part of that review. Comments received in response to this proposal will be given full consideration in that action.

Proposal 14. Two comments were received in response to this proposal to revise the marking requirements of § 45.15 so that when it is impractical to mark the required eligibility information on the tag attached to a part or container, the tag may refer to a specific and readily available reference manual or catalog which contains the required information.

One comment was submitted by the Industry Association that petitioned for this rule change. It found the wording of this proposal to be reasonable.

Another commenter believed that the original concept of Parts Manufacturer Approvals (PMA) was primarily based on the production of parts such as spark plugs, pistons, piston pins, etc., to be used as duplicate parts without a specific part number. These parts are, in fact, required to have a specific part number. Further, the PMA manufacturer is required to mark the parts (or tags) with parts replacement eligibility. It was not proposed to remove the requirement for this information from § 45.15; it was proposed to provide that, in those cases where it would not be practical to mark the required eligibility information on the tag, the tag may contain a reference to a readily available manual or catalog containing the required eligibility information.

Section 45.15 is adopted without substantive change.

Proposal 15. Section 61.39(b) has required that an applicant for an airline transport pilot certificate or an additional rating who does not wish to retake the required written examination must have been continuously employed since passing the written examination and be participating in a pilot training program. For the exception from the 24-month requirement to apply, a person had to have been employed by a carrier immediately (within 24 hours) after taking the written examination; a strike or furlough constituted a break in continuous employment, thus invalidating the exception. The FAA has determined that this rule is too restrictive, since it is possible for a pilot to be on vacation for a longer period of time than some strikes or furloughs last, and it would be unfair to apply the exception provision to the vacationing pilot but not the striking or furloughed pilot. Accordingly, Notice 80–23 proposed to amend § 61.39 to provide that the applicant need only be employed within the period ending 24 calendar months after the month in which the applicant passed the written examination and at the time of the flight test. Notice 80–23 also proposed to eliminate the continuous employment requirement and substitute a requirement to complete initial training and when appropriate, transition or upgrade training, and to meet the recurrent training requirements. Requiring an individual's training to be current is a better means of ensuring retention of the knowledge tested by the written test than requiring continuous employment.

One commenter responded in support of the proposal. The proposal is adopted as proposed.

Proposal 16. Section 61.155(d) has provided that a commercial pilot may credit toward the total flight time required for an airline transport pilot certificate any second-in-command time "in operations under Part 121." However, § 61.51(c)(3) provides that for meeting the requirements for a certificate or rating, a pilot may log as second-in-command time all flight time during which that pilot acts as second in command of an aircraft on which more than one pilot is required under the type certification of the aircraft or the regulations under which the flight is conducted. The intent of § 61.51(c)(3), when it was

adopted, was that this rule should apply to the experience requirements for each kind of pilot certificate. However, at that time no change was made in § 61.155(d). Notice 80-23 proposed to eliminate the phrase "in operations under Part 121," so that all second-in-command time which meets the requirements of § 61.51(c)(3) may be credited under § 61.155. No comments were received on this proposal.

The proposal is adopted and all second-in-command time which meets the requirements of § 61.51(c)(3) may be credited under § 61.155(d).

Proposal 17. Section 63.35(d) has required continuous participation in a maintenance, flight engineer, or pilot training program of a Part 121 certificate holder for an applicant for a flight engineer certificate to be exempted from the 24-month validity period for the written examination. Similar to § 61.39, this section has been interpreted to mean that any break in employment, such as a strike or furlough, constitutes an interruption of continuous participation in a training program and prevents the exception from applying. The FAA has reevaluated this requirement and has determined that continuous participation in a training program is not essential. Currency in a certificate holder's training program for a flight crewmember or recency of experience for a mechanic employed by a certificate holder ensures knowledge retention better than continuous participation in a training program.

Notice 80-23 proposed to amend § 63.35(d) to apply the exception provision to a flight crewmember or mechanic who is employed by a certificate holder within the period ending 24 calendar months after the month in which the applicant passed the written examination, and whose training is current or meets the recent experience requirements for a mechanic under § 65.83. It also proposed to expand the rule to include employment by a commuter air carrier.

No comments were received on the proposal. It is adopted without substantive change.

Proposal 18. Notice 80-23 proposed to amend § 65.101 to allow formal training to be substituted for the practical experience now required for repairman certificate eligibility. One commenter agreed with the substance of the proposal, with the exception that completed formal training should have the prior approval of the Administrator instead of being reviewed for acceptability after completion.

Because of the diversity and uniqueness of training associated with repairman ratings, it would be impractical to establish national uniform training standards necessary for prior approval of training programs. Conversely, FAA certificated air agencies, aviation manufacturers, and air carriers are best able to establish that formal training which will qualify the repairmen they employ to perform or supervise the maintenance of aircraft or components at its facilities. The FAA can then review the training and determine if it is acceptable. This amendment will provide a logical alternative to the 18 months of practical experience formerly required for repairmen eligibility and still provide an equivalent level of competency. Accordingly, this proposal is adopted without substantive change.

Proposal 19. It was proposed to amend § 65.127(b) to provide that a parachute rigger need only have available suitable housing that is adequately heated, lighted, and ventilated for drying and airing parachutes. This section has required, in part, a compartment for hanging a parachute vertically for drying and airing. Since parachutes are now made of synthetic fabrics, a vertical or horizontal means for drying and airing parachutes is also acceptable. However, the housing must still be adequately heated, lighted, and ventilated.

No comments were received on this proposal. Section 65.127(b) is being revised as proposed.

Proposal 20. Notice 80-23 proposed to delete the list of purposes for which a special flight authorization could be issued. The intent was to eliminate the need for an applicant to petition for an exemption from previous § 91.28 when the purpose was other than that specified under the rule. This was intended to relieve the burden on both the FAA and the public imposed by exemption procedures.

Review of the comments received revealed that even though all commenters supported the proposal, they apparently misconstrued intent, in believing that CAB authority, in addition to the FAA special flight authorization, would be necessary for all purposes, including those which formerly did not require CAB authority under the previous rule. The CAB also submitted comments consistent with most commenters indicating that the proposed rule was subject to misinterpretation. The CAB provided revised language for proposed § 91.28(c) to preclude any misunderstanding as to when CAB authority would be necessary.

In this regard the FAA agrees with the commenters and the CAB that the proposal was not clear relative to when CAB authority would be necessary. Accordingly, the FAA has amended the language of proposed § 91.28 to clarify when CAB authority would be necessary.

One commenter noted that, in the case of special flight authorizations for air shows (§ 91.28(b)(6)), the application procedure contained in proposed § 91.28(a) would no longer provide for applications to be made to the Regional Director of the FAA region in which the air show will take place. The commenter stated that the existing application procedure should be retained since it is economical and effective. The FAA agrees with this comment and has amended § 91.28(a) to reinstate this application procedure.

One commenter stated that it was not clear whether the Regional Director would have authority to issue special flight authorizations for extended periods of time; i.e., once justification had been established for an initial special flight authorization, there would be no benefit in repeating the procedure for each subsequent trip, as in the case of a Canadian amateur-built aircraft to participate at United States air shows. This comment was not considered since it was determined to be outside the scope of Notice 80–23.

Accordingly, this section has been amended consistent with public comments in the interest of clarification and adopted without substantive change.

Proposal 21. This proposal would have required all helicopters operating under IFR to use altimeters which have been tested for the altitudes at which operations are conducted. Operations Review Program Notice No. 12 proposes a number of changes to § 91.170. Accordingly, this proposal is withdrawn and will be acted upon as part of that review. Comments received in response to this proposal will be given full consideration in that action.

Proposal 22. This proposal would delete references to Part 103 in § 121.135(b)(23) and insert appropriate references to Title 49 of the CFR. Since this change was previously accomplished in Operations Review Amendment No. 9 (45 FR 46736), this proposal is withdrawn.

Proposal 23: This proposal would require the interphone system to be accessible for use at enough flight attendant stations so that all floor-level emergency exist in each passenger compartment are observable from one or more of those stations so equipped. Section 121.319(a) requires, in part, that airplanes with a seating capacity of more than 19 passengers must be equipped with a crewmember interphone system. Section 121.319(b)(5)(i) requires that for large turbojet-powered airplanes, the interphone system must be accessible for use at enough flight attendant stations so that all floor-level emergency exits in each passenger compartment are observable from one or more of those stations. From a security and operational viewpoint, if the floor-level exit is located within a galley, and the entryway to the galley is observable, this will satisfy the operational/security requirements and, therefore, it would be unnecessary to view the exit itself. No comments were received on this proposal. Accordingly, it is adopted without substantive change.

Proposals 24, 25, 27, and 28. Sections 121.385, 121.389, 121.695, and 121.697 contained inconsistencies in the use of the words "aircraft" and "airplanes." The proposals would replace the word "aircraft" with the word "airplane" where it appears in §§ 121.385(a), 121.389(a)(2), 121.695(a), and 121.697(a) and (d). These editorial corrections

would make the language consistent with the applicable word definitions. No comments were received on these proposals. Accordingly, they are adopted without substantive change.

Proposal 26. This proposal would have amended § 121.585 to require a certificate holder to notify a passenger declaring a firearm in checked baggage of the definition of a "loaded" firearm. It further would have required a certificate holder to determine that ammunition is carried in accordance with the Hazardous Materials Regulations in Title 49 Parts 171, 172, and 173 of the CFR.

Inasmuch as there is no evidence indicating a need for this added provision, and its implementation would impose an additional unnecessary cost on certificate holders, this proposal is withdrawn.

Proposal 29. This proposal would relieve an unnecessary burden on certificate holders that do not have clerical staffs working holidays and weekends by revising § 121.703 to change the reporting time to 9:00 a.m. the second workday following the date of the reportable event for reports covering holidays and weekends. No comments were received on this proposal. Accordingly, this proposal is adopted without substantive change.

Proposal 30. Part 129 prescribes rules governing the operation within the United States of aircraft of foreign air carriers holding a permit issued by the Civil Aeronautics Board (CAB) under Section 402 of the Federal Aviation Act of 1958. Currently, the CAB issues exemptions to permit temporary operations by foreign air carriers without a Section 402 permit provided the foreign air carrier is in compliance with Part 129. This proposal would amend § 129.1 of the FAR to make Part 129 applicable to foreign air carriers who hold either a Section 402 permit or other appropriate economic authority, or an exemption issued by the CAB which requires compliance with that Part. No comments were received on this proposal.

The phrase "conditioned upon the foreign air carrier compling with the requirements of the Part" is ambiguous since Part 129 applies regardless of CAB conditions shown on the economic authority to operate in the United States. Accordingly, this section has been amended and adopted without substantive change.

Proposals 31 and 32. These proposals were disposed of in Amendments 135-13 (46 FR 28301; May 26, 1981) and 135-15 (46 FR 30968; June 11, 1981).

Editorial Corrections

Amendments to §§ 107.13(a) and 121.575 were not proposed in Notice 80-23. They are editorial corrections which are necessary and resulted from new Part 108, Airplane Operator Security (46 FR 3782; February 15, 1981).

These amendments correct §§ 107.13 and 121.575 by inserting the appropriate reference to the new Part. No substantive change is made as a result of the corrections.

ADOPTION OF THE AMENDMENT

Accordingly, Parts 23, 25, 45, 61, 63, 65, 91, 107, 121, and 129 of the Federal Aviation Regulations are amended effective April 28, 1982.

(Secs. 313(a), 601 through 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1425); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49)

NOTE: The FAA has determined that these amendments reduce the regulatory burden on the flying public by relaxing certain regulations that govern prerequisites for flight tests, approved parts reference for manufacturers, and special flight authorization for foreign civil aircraft by prescribing only the minimum regulations deemed necessary for safety. The FAA's evaluation of the changes to Parts 23, 25, 45, 61, 63, 65, 91, 107, 121, and 129 indicates that the benefits will exceed the costs, primarily because the complexity and volume of regulatory material have been reduced. Further, proposals contained in the notice which have potential for placing a regulatory burden on the public have been removed. Therefore: (1) it has been determined that this is not a major regulation under Executive Order 12291; and (2) I certify that, under the criteria of the Regulatory Flexibility Act, these amendments will not have a significant economic impact on a substantical number of small entities. In addition, the FAA has determined that these amendments are not significant under the Department of Transportation Regulatory Policies Procedures (44 FR 11034; February 26, 1979). The impact of this rulemaking is so minimal it does not require a final regulatory evaluation since most of the amendments are merely editorial corrections and clarifications and some have minimal relaxatory and beneficial economic impact.

Amendment 65-28
Fees for Certification of Foreign Airmen and Air Agencies
Adopted: July 21, 1982 Effective: October 18, 1982

(Published in 47 FR 35690, August 16, 1982)

SUMMARY: These amendments establish (1) a schedule of fees for issuing certain airman and repair station certificates to certain foreign nationals outside the United States; (2) a method for collecting those fees; and (3) a need requirement for original certification of those airmen (a need requirement has already been established for issuing certificates to foreign repair stations). These amendments are designed primarily to recover costs the FAA incurs in certificating foreign airmen and repair stations overseas. The amendment requires that certificates be issued overseas to foreign nationals only when needed to operate or assure the continued airworthiness of U.S.-registered civil aircraft. Finally, this amendment is in keeping with the intent of Congress.

FOR FURTHER INFORMATION CONTACT: Kathleen W. Gorman, Chief, International Analysis & Coordination Division, AIA-300, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 426-3230

or

Leo Weston, Chief, General Aviation and Commercial Branch, AWS-340, Aircraft Maintenance Division, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone: (202) 426-3546

or

Arthur C. Jones, Chief, Certification Branch, AFO-840, General Aviation and Commercial Division, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone: (202) 426-8196

SUPPLEMENTARY INFORMATION:

I. Background

On July 17, 1981, the FAA issued Notice of Proposed Rulemaking No. 81-12 (46 FR 40529; August 10, 1982) proposing: 1) to establish fees for issuance of certain airman and repair station certificates to foreign nationals residing outside the United States; 2) a method of collecting those fees; 3) a need requirement for those airmen; and 4) a 2-year limitation on the validity of certificates issued to foreign nationals. All interested persons have been given an opportunity to participate in the making of the proposed regulations, and due consideration has been given to all matters presented.

A. *Statutory*

Title VI of the Federal Aviation Act of 1958, as amended (the Act), gives the Administrator authority to issue certificates for airmen, instructors, schools, and repair stations. Section 602(b) states that the Administrator may, at his discretion, prohibit or restrict the issuance of airmen certificates to aliens.

In addition, the Administrator is charged with establishing a fair and equitable system for recovering full costs expended for any service, such as issuing the certificates discussed in Notice 81-12, which provides a special benefit to an individual beyond those which accrue to the general public. Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a) states:

> It is the sense of the Congress that any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared or issued by any Federal Agency . . . to or for any person (including groups, associations, organizations, partnerships, corporations, or

businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible. . . .

To give full effect to this sense of Congress, § 483a further provides:

> The head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts. . .

The statute provides that the amounts collected shall be paid into the Treasury as miscellaneous receipts.

B. *OMB Guidance*

To aid in establishing fee schedules, the Office of Management and Budget (OMB) has prescribed in Circular No. A-25, "User Charges," the general guidelines to be used in developing an equitable and reasonable uniform system of charges for certain Government services and property.

The circular provides that "Where a service (or privilege) provides special benefits to an identifiable recipient above and beyond those which accrue to the public at large, a charge should be imposed to recover the full cost to the Federal Government of rendering that service." Circular No. A-25 specifies:

A special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

> (a) Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (e.g., receiving a patent, crop insurance, or license to carry on a specific business); or
>
> (b) Provides business stability or assures public confidence in the business activity of the beneficiary (i.e., certificates of necessity and convenience [sic: convenience and necessity] for airline routes, or safety inspections of craft); or
>
> (c) Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (e.g., receiving passport, visa, airman's certificate, or an inspection after regular duty hours).

C. *Previous Notices*

Consistent with the guidelines in Circular No. A-25, in recent years the FAA issued several notices of proposed rulemaking to establish a schedule of fees for various FAA activities (Notices 67-17, 67-18, and 78-6). The schedules were predicated, however, on the FAA's systemwide total cost of performing specific certification activities, and no attempt was made to distinguish the far greater costs incurred performing certification services overseas from costs incurred performing similar services in the United States. The proposed fee schedules were never implemented. Beginning in 1973, the Congress annually prohibited implementing fee schedules through language in the appropriations legislation for the Department of Transportation. In 1979, this prohibition was deleted from the appropriations legislation but included in Section 45 of the Airline Deregulation Act of 1978:

> Notwithstanding any other provision of law, neither the Secretary of Transportation nor the Administrator of the Federal Aviation Administration shall collect any fee, charge, or price for any approval, test, authorization, certificate, permit, registration, conveyance, or rating relating to any aspect of aviation (1) which is in excess of the fee, charge, or price for such approval, test, authorization, certificate, permit, registration, conveyance, or rating which was in effect on January 1, 1973, or (2) which did not exist on January 1, 1973, until all such fees, charges, and prices are reviewed and approved by Congress.

Before 1970, a liberal policy prevailed within the FAA regarding acceptance of applications for airman and air agency certificates by foreign nationals residing outside the United States. During the 1970's, however, the continuous expansion in worldwide demand for FAA certification services, along with the adverse movement of currency exchange rates against the U.S. dollar, placed an undue burden on FAA budgetary and manpower resources.

Simultaneously, the appropriateness of this policy was called into question. The technical sophistication of many foreign civil aviation certification authorities has been strengthened by general economic growth and civil aviation technical assistance provided by the International Civil Aviation Organization (ICAO), the United States, and other nations. Overly free exportation of U.S. certificates could deter the development of competent, indigenous certification programs. The FAA wishes to avoid that result and to encourage foreign governments in developing aeronautical codes and administrative capabilities which would permit them to conduct their own certification functions.

For these reasons the Administrator began a practice of restricting recertification of foreign nationals, primarily through the requirement that the applicant show that such certification is required to operate or assure the continued airworthiness of U.S.-registered civil aircraft (need requirement). This need requirement was incorporated in regulations governing certification of foreign repair stations (14 CFR § 145.71). To further ensure consistent implementation of this practice, these amendments incorporate the need requirement in the Federal Aviation Regulations (14 CFR Parts 61, 63, 65 and 67) governing initial airman certification.

In 1980 Congress passed the International Air Transportation Competition Act of 1979, giving the Administrator authority to establish fee schedules for airman and repair station certificates issued outside the United States. Section 28 of that Act amends § 45 of the Airline Deregulation Act of 1978 to read as follows:

> Nothing in this section shall prohibit the Secretary of Transportation or the Administrator from collecting a fee, charge, or price for any test, authorization, certificate, permit, or rating, administered or issued outside the United States, relating to any airman or repair station.

Although § 28 provides discretionary authority to collect fees from any applicant residing outside the United States, this regulatory amendment establishes fees to be collected only from foreign nationals residing outside the United States.

II. Discussion of Amendments

In keeping with the authority granted under § 28 of the International Air Transportation Competition Act of 1979, these amendments establish a schedule of fair and equitable fees for airman and repair station certification activities performed for foreign nationals outside the United States. For purposes of these amendments, persons having resident alien status are treated the same as U.S. citizens and will not be charged for FAA certification should it occur outside the United States.

Fixed fees for airman certificates and hourly rates for assessing fees for repair station certificates are included in the regulations as a new Appendix to Part 187 entitled "Fee Schedule for Certification Services Performed Outside the United States on Behalf of Foreign Nationals Other Than Resident Aliens." (Fixed fees could not be derived for repair station certificates because the time involved varies widely.) All fees are derived from total certification costs and include direct and indirect labor costs, overhead costs, interest recovery, depreciation, and space rent costs, where appropriate. The fees therefore implement OMB Circular No. A-25 and will recover all airman and repair station certification costs incurred by the FAA in issuing original certificates to foreign nationals.

No fees will be charged for renewing airman certificates. A fee will continue to be charged for replacing stolen or lost certificates. In addition, fees will be assessed for reissuing repair station certificates since reissuing these certificates requires considerable

expenditure of FAA technical resources. However, because the technical resources expended in reissuing Inspection Authorization Certificates under § 65.91 have, upon further review, been determined to be minimal, the proposed fee for renewing these certificates is not adopted. In addition, a requirement has been added that checks tendered for fee payment must be drawn on a U.S. bank. This requirement has been added because Treasury depositaries have established minimum check amounts acceptable for deposit. Without this requirement a substantial number of checks submitted for fees would be uncollectible.

These amendments also formally establish a need requirement for issuing certificates to foreign applicants outside the United States; that is, the certificates must be needed for the operation or continued airworthiness of U.S.-registered aircraft. Foreign nationals who are resident aliens will not have to meet this requirement.

The FAA does not currently issue to foreign nationals overseas: (1) Any certificates for Pilot Schools (Part 141), Ground Instructors (Part 143), Aviation Maintenance Technical Schools (Part 147), or Parachute Lofts (Part 149), and (2) certificates issued under subparts of Part 65 for Aircraft Dispatchers (Subpart C), Repairmen (Subpart E), or Parachute Riggers (Subpart F). Consequently, those parts and subparts have not been amended to include the need requirement and other requirements included in these amendments. Subpart B of Part 65 similarly has not been amended although it is understood the current practice of issuing under this subpart a limited number of air traffic control tower operator certificates overseas to foreign nationals to operate civilian/military joint-use facilities in Europe will be continued under an appropriate agreement with the Department of Defense.

Notice 81-12 proposed a 2-year validity period for each certificate issued to a foreign national who is not a resident alien. In this regard, the FAA has determined that additional information concerning this issue is needed. Therefore the proposal concerning the 2-year validity period is not adopted at this time. The FAA may, however, initiate rulemaking in this area in the future. It should be noted that withdrawing this proposal does not alter the current renewal requirements for repair station, flight instructor, inspection authorization, certain flight engineer, and student pilot certificates.

III. Fee Collection

For airman certificates, the FAA will collect the fees at the time of application for a certificate or rating, after first ascertaining the applicant's eligibility. The Flight Standards Office (FSO) or designated examiner will determine whether the applicant meets the need requirement and other preliminary eligibility requirements, such as age and currency. If these requirements are met, the FSO will issue a receipt as evidence of payment and forward the applicable fee to the regional accounting office serving the area. Fees must be in the form of a check, money order, or draft payable in U.S. currency to the Federal Aviation Administration and drawn on a U.S. bank. No application will be acted upon until evidence of the payment has been presented. There will be no refund of any fee payment for any examination which the applicant fails to pass. However, if an applicant notifies the FAA at least one week before a scheduled examination that he wishes it cancelled, the FAA will refund the fee payment after deducting a minimal service charge to cover the cost of processing the application.

In the case of repair station certificates, applicants will submit as prepayment the costs required for 25 hours of technical activity and 7.5 hours of clerical activity for original certification or approval of a change of location or housing of facilities, or 10 hours of technical activity and 3 hours of clerical activity for an amendment or renewal of the certificate due to an added rating or change in ownership, at the hourly rates specified in the Appendix to Part 187. This prepayment will be processed in the same fashion as fees collected for airman certificates. If the time required in actual certification is less than 25 and 7.5 hours or 10 and 3 hours, the FAA will submit to the applicant a refund to cover the difference between prepayment and actual costs. Conversely, if the time required is greater, the applicant will be required to submit the additional funds. As in the case of airman certificates, applicants for repair station certificates must pay these fees, regardless of whether a certificate is awarded.

In Notice 81-12, the agency proposed to amend § 65.15a. That section had previously been revoked by another regulatory action and, therefore, the proposed amendment was inappropriate. Therefore, the proposal to amend § 65.15a is withdrawn.

IV. Analysis of Comments

The FAA received 39 comments in response to Notice 81-12, 29 of which originated from the same pilot school in Belgium. Most of these comments, particularly those originating from the Belgian pilot school, argue that the proposed 2-year renewal requirement would inhibit the safe expansion of aviation in many parts of the world by denying FAA airman certificates to many foreign nationals overseas who may not be able to demonstrate periodically that they are operating or assuring the continued airworthiness of U.S.-registered aircraft. These commenters further argue that, as a result, aviation safety would suffer, the world market for aviation products and services would decrease, and most important, the current orientation of many pilots toward U.S. products and services would be substantially reduced.

Regarding this latter effect, the commenters argue the proposed 2-year renewal requirement would decrease U.S. general aviation exports by reducing the number of pilots trained on U.S. equipment. As one commenter states, "Foreign pilots trained on U.S.-aircraft will develop U.S.-brand loyalty, which would reflect when purchasing aircraft in their native countries" (sic). Those foreign nationals holding FAA flight instructor certificates apparently feel that the inability of some foreign nationals to meet the continuing need requirement would cause them to seek training from foreign-certificated flight instructors who use foreign-manufactured equipment and related training aides instead of FAA-certificated instructors using U.S.-manufactured equipment and related training aides.

Other commenters disagree with the proposed renewal requirement as a safety surveillance measure as it applies to airman certificates issued under Parts 61 and 63. One commenter points out that the FAA's current biennial flight review and instrument competency checks fulfill the requirement for safety surveillance and that a proposed 24-month term for a new license would appear to be a duplication of the biennial flight review.

The FAA believes that although these comments have merit as they apply to certification under Part 61, similar surveillance does not exist for airmen certificated under Parts 63 and 65. This amendment would have ensured greater surveillance of operations involving U.S.-registered aircraft operating outside the United States. However, unless and until it is determined that foreign nationals should be required to demonstrate a need for certification on a periodic basis, the FAA does not believe it appropriate to institute the biennial renewal requirement. Therefore, the proposal is withdrawn at this time.

Other commenters point out that at many overseas locations served by U.S. air carriers there is no FAA-certificated repair station and that it is financially advantageous for U.S. air carriers to use resident foreign nationals who are FAA-certificated mechanics rather than incur the considerably higher costs of stationing FAA-certificated U.S. citizens at these locations. Finally, they indicate that many foreign nationals may find it difficult to pay the $400 fee for original airframe mechanic certification and be deterred from applying.

Current FAA-certificated mechanics will not be required to pay the fee for a mechanic certificate or the fee for an inspection authorization certificate. While the costs of initial certification of new applicants may have to be borne directly or indirectly by the U.S. employer, the potential cost on U.S. air carriers is minimal when compared to either their total overseas maintenance costs or the costs of stationing FAA-certificated U.S. citizens overseas. Furthermore, the need for cost recovery and fiscal responsibility in government far outweighs this impact.

The FAA also considered the possibility that U.S. citizens, such as those providing humanitarian or religious services in remote overseas locations, could be impacted

negatively if these proposed fees deter foreign nationals from applying for original FAA mechanic certificates. The FAA does not expect foreign nationals to be deterred from applying. The employment value of certification to the foreign mechanic far outweighs the cost of this fee, and the value of the services provided U.S. citizens far outweighs whatever small percentage of the certification cost is passed on to them. Moreover, many of these U.S. citizens are already required to register their aircraft with the Civil Aviation Authority in the country in which it is based and therefore would be unaffected by the rule.

V. Issuance of Medical Certificates

Notice 81-12 proposed an $8 fee for the initial issuance of FAA medical certificates. Internal FAA review has shown that administering this separate fee for medical certificates would create an excessive burden by requiring the FAA to monitor the fee collection activities of overseas designated aviation medical examiners (AME's). To avoid this problem, applicants for initial student pilot certificates issued by the FAA or by a Designated FAA Examiner will pay a single fee for airman certification which will include $8 to cover the costs of a medical certificate issued under Part 67. An $8 charge will also be included into the fee for an initial certificate issued under §§ 61.75, 61.77, 63.23, and 63.42 if the applicant presents such a medical certificate as evidence of meeting the medical standards for the foreign certificate upon which the application is based.

In keeping with the decision to remove any fee collection responsibility from AME's, overseas applications for student pilot certificates must now be made directly to an FAA Flight Standards Office or to a Designated FAA Examiner and cannot be made to an AME. The administrative procedures of § 61.85 governing applications for student pilot certificates therefore have been amended to cover only applications made within the United States.

The Amendment

Accordingly, Parts 61, 63, 65, 67, 145, and 187 of the Federal Aviation Regulations (14 CFR Parts 61, 63, 65, 67, 145, and 187) are amended, effective October 18, 1982.

(Secs. 313, 601, 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, and 1422); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title V, Independent Offices Appropriations Act of 1952 (31 U.S.C. 483(a)); Sec. 28, International Air Transportation Competition Act of 1979 (49 U.S.C. 1159(b)).)

NOTE—Since compliance with these amendments will have only a minimal cost impact on the maintenance of U.S.-registered aircraft overseas and will not otherwise impose any cost or other economic burden on U.S. citizens, it has been determined that they are not major regulations under Executive Order 12291 and, for the same reason, it is certified that, under the criteria of the Regulatory Flexibility Act, they will not have a significant economic impact on a substantial number of small entities. The FAA has determined that this document involves regulations which are not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact on U.S. citizens of the regulations is no minimal that they do not require an evaluation.

Amendment 65-29
Use of Alcohol or Drugs
Adopted: December 13, 1984 Effective: June 17, 1985

(Published in 50 FR 15376, April 17, 1985)

SUMMARY: These amendments establish rules governing the use of alcohol or drugs by any crewmember assigned to perform duty during the operation of an aircraft. In addition to maintaining current provisions regarding the use of alcohol or drugs before serving as a crewmember, it delineates the maximum allowable blood alcohol content level. Crewmembers also will be required to furnish the Administrator with the results of any test that is performed that may indicate the percentage of alcohol in the blood or the presence of drugs in the body when such tests have been taken within 4 hours after acting or attempting to act as a crewmember. Failure to furnish or authorize the release of the results of these tests will result in certificate action or other sanctions. These rules are based, in part, on a National Transportation Safety Board determination that alcohol is a cause or factor in about 40 aircraft accidents annually, almost all of which are fatal. These amendments are intended to facilitate enforcement of the present drug and alcohol regulations and to reduce aircraft accidents and incidents attributable to consumption of alcoholic beverages and the use of drugs. For this same purpose, the FAA is proposing elsewhere in this issue of the *Federal Register* to require crewmembers to submit to tests for alcohol given by law enforcement officers under certain circumstances.

FOR FURTHER INFORMATION CONTACT: Mike Sacrey or Roger Baker, Federal Aviation Administration, General Aviation & Commercial Division, Operations Branch (AFO-820), 800 Independence Avenue, SW., Washington, D.C. 20591; Phone: (202) 426-8194.

SUPPLEMENTARY INFORMATION:

Background

Rules relating to the use of drugs and the consumption of alcoholic beverages in connection with aircraft operations are set forth in § 91.11 of the Federal Aviation Regulations (FAR) (14 CFR 91.11). This section provides that no person may act as a crewmember of a civil aircraft (1) within 8 hours after the consumption of any alcoholic beverage, (2) while under the influence of alcohol, or (3) while using any drug that affects the faculties in any way contrary to safety. "Crewmember" is defined in FAR Part 1 as "a person assigned to perform duty in an aircraft during flight time." A pilot, flight engineer, flight navigator, or flight attendant is such a person.

The National Transportation Safety Board (NTSB) has recommended that the FAA add an implied consent clause to the FAR and specify an alcohol level at which a pilot would be considered to be under the influence. The General Accounting Office (GAO) made similar recommendations in a Report to Congress by the Comptroller General entitled "Stronger Federal Aviation Administration Requirements Needed to Identify and Reduce Alcohol Use Among Civilian Pilots" (CED-78-58; March 20, 1978).

The FAA is concerned about the serious hazard, during aircraft operations, resulting from impairment of the pilot's faculties due to alcohol. Even small amounts of alcohol affect judgment, coordination, performance, and reaction time. Vision, hearing, touch, information processing, memory, reasoning, and attention span also may be affected by alcohol consumption. Inflight testing of experienced professional aviators has shown that even 40 milligrams percent by weight of alcohol in the blood exerts detrimental effects on performance which are incompatible with flight safety (Report on "The Effects of Alcohol on Pilot Performance During Instrument Flight" by Aviation Medicine Research Laboratory, Ohio State University; FAA Report No. FAA-AM-72-4). Moreover, the effects of alcohol on performance are additive to the expected hypoxic effects with increased altitude.

The ability of a crewmember to function without impairment of performance is an essential element in the safety of flight and in the effectiveness of the air traffic system. Since alcohol can affect the ability of a crewmember to function properly and thus is detrimental to aviation safety, the FAA must make every reasonable effort to prevent those who are under the influence of alcohol from flying.

For a number of years the FAA has expended a substantial amount of time and funds trying to educate the flying public to this danger. As part of this effort, the agency worked closely with groups such as the Aircraft Owners and Pilots Association and the Air Line Pilots Association to establish effective educational programs. Although these programs have been beneficial, the problem still remains. There continues to be a significant number of accidents each year where alcohol is found to be a factor or cause. For example, in 1979, according to an NTSB study, U.S. general aviation aircraft were involved in 34 accidents where alcohol impairment was a cause/factor, 30 of which were fatal. This represents an 88 percent fatality rate for alcohol-related accidents as compared to a 17 percent fatality rate for all of general aviation. In addition, in recent Congressional testimony, the FAA stated that there were 155 reported accidents from 1980 through 1982 in which evidence of drug carriage was found. Therefore, the FAA must take additional steps to reduce the frequency of these accidents by strengthening the rules relating to the use of alcohol and drugs.

The FAA published Notice of Proposed Rulemaking (NPRM) No. 81-9 on July 27, 1981 (46 FR 38480), proposing regulations that were intended to deter persons from acting or attempting to act as a crewmember while under the influence of alcohol or drugs and to provide a basis for necessary enforcement action. Seventy-four comments were received as a result of the NPRM. These amendments reflect both FAA consideration of those comments and its continuing responsibility to uphold and encourage safety in air commerce.

Blood Alcohol Content

Currently § 91.11(a) (1) and (2) provides that no person may act as a crewmember of a civil aircraft within 8 hours after the consumption of any alcoholic beverage or while under the influence of alcohol. In response to the recommendations from the NTSB and the GAO, Notice 81-9 proposed a further amendment to that section to prohibit acting as a crewmember while having 40 milligrams percent or more by weight of alcohol in the blood.

Some commenters oppose the proposed 40 milligrams, recommending that a level of 100 milligrams percent by weight, as used in many state motor vehicle statutes, be used instead. A number of other commenters agree that the proposed level is appropriate in view of the high performance required of pilots and the additive effects of alcohol at higher altitudes.

The FAR currently requires strict separation between alcohol and flying. The consumption of any alcohol within 8 hours before acting as a crewmember is prohibited. The FAA is adding a new prohibited level of alcohol which can be used to take enforcement action against a crewmember even where witness statements alone are insufficient to establish violations of the 8-hour rule or the under-the-influence rule. The FAA proposed a value of 40 milligrams percent by weight based on the latest and most extensive study and research, at the time of the proposal, into the amount of impairment induced by specific levels of alcohol content within the blood. Inflight testing of experienced professional aviators showed that 40 milligrams percent by weight of alcohol in the blood produced detrimental effects on performance that were incompatible with flight safety. Based on the available evidence, the FAA proposed that 40 milligrams percent by weight of alcohol in the blood be incorporated into the regulations. It is important to note, however, that it is possible to be under the influence of alcohol, or to have 40 milligrams or more percent by weight of alcohol in the blood, or both, more than 8 hours after consuming an alcoholic beverage.

Some commenters question what the term "40 milligrams percent by weight of alcohol" means, suggesting that a more common term be used. That term means 40 milligrams of alcohol in a sample of 100 milliliters of blood. This is equivalent to .04 percent alcohol in the blood. States, in their motor vehicle statutes, normally use percent to describe blood alcohol levels. The FAA agrees that it is appropriate to use a term which is more commonly understood. The rule, as adopted, thus expresses the prohibited blood alcohol level as ".04 percent."

Several commenters note that it is possible to have a blood alcohol level higher than .04 percent more than 8 hours after consuming an alcoholic beverage. This is true and is one reason why the "under the influence" provision and the ".04 percent" provision are needed in § 91.11 in addition to the 8-hour rule.

Breath Test

Notice 81-9 proposed criteria for requiring a crewmember to submit to a chemical test of the breath for blood alcohol levels. Such a test would have corroborated other evidence, such as a person's appearance or conduct, and it was anticipated that it would have aided in enforcing the regulations. The test would have been conducted by a representative of the Administrator on reasonable grounds to believe that the crewmember had violated § 91.11.

After further consideration, it appears that it would be impractical to have representatives of the Administrator equipped and trained to conduct the tests. As a number of commenters state, due to staffing levels and the large geographic areas covered by district offices, FAA inspectors are rarely able to respond to a report of a crewmember who is suspected of violating § 91.11 quickly enough to make a breath test useful. Breath testers would not be used often enough by FAA inspectors to warrant the expense of the testers and initial and recurrent training of the inspectors. There appears to be no practical method of requiring suspected violators to submit to a chemical test of the breath conducted by a representative of the Administrator. For this reason, the proposals requiring submission to a chemical test of the breath when requested by the Administrator and the consequences of refusal to submit to such a test are withdrawn.

Many commenters note that state and local law enforcement officers are often the first officials on the scene of an incident. Many state or local law enforcement officers are authorized, trained, and equipped to conduct, or are authorized to direct others to conduct, a chemical test of the breath or other test to determine the presence of alcohol or drugs in the body. The Administrator is proposing, in a supplemental notice of proposed rulemaking (published elsewhere in this *Federal Register*), that crewmembers be required to submit to such a test under certain conditions when requested by a law enforcement officer. This amendment allows the Administrator to request the results of these tests, as well as medical tests, based on reasonable ground for believing that the person acted, or attempted to act, as a crewmember of a civil aircraft in violation of § 91.11. The Administrator's ability to elicit the results of these tests should act as a positive deterrent to those persons who might otherwise attempt to act as a crewmember while under the influence of alcohol or drugs.

Attempting to Act as a Crewmember

Notice 81-9 also proposed to prohibit attempting to act as a crewmember under any of the criteria specified in § 91.11(a). Several commenters oppose this proposal, arguing that it may be difficult to establish when a person is attempting to act as a crewmember. However, circumstances do exist under which a person may be found to have attempted to act as a crewmember, such as when a person enters an aircraft to assume his or her duties as a crewmember while demonstrating by manner or physical indications that he or she appears to be intoxicated or under the influence of drugs. In such a case, an FAA inspector will not have the dilemma of choosing between trying to dissuade a person from acting as a crewmember or waiting for that person to actually execute his or her duties as a crewmember before a violation can be established.

One commenter questions whether flight attendants should be subject to the provisions of § 91.11, stating that there appears to be no history of accidents caused by flight attendants acting in violation of this section. As crewmembers, flight attendants should not be under the influence of drugs or alcohol while on duty since it could affect passenger safety. For this reason, flight attendants have been included in § 91.11 since it was first proposed. Their inclusion in this final rule is consistent with the purpose of the regulation.

Alcohol and Drug Test Results

Notice 81-9 proposed to amend § 91.11 to require that on the Administrator's request, a crewmember must furnish to the Administrator the results of any medical tests taken that indicate the level of alcohol in the blood or the presence of drugs in the body. The request would be made in the course of an enforcement investigation and would be based on reasonable grounds for believing that the person may have acted or attempted to act as a crewmember of a civil aircraft in violation of § 91.11(a). For a person to be required to submit the results of such a medical test, the test must have been given within 4 hours after the person acted or attempted to act as a crewmember. Substantial penalties were also proposed in §§ 61.16 and 63.12(a) for refusal to furnish the requested medical test results.

One commenter states that the 4-hour time period in which the medical test would have to be given is too long and suggests that a person should only be required to produce the results of tests conducted within 1 hour after acting or attempting to act as a crewmember. However, scientifically valid results can be obtained in the 4-hour time period proposed. Further, the 1-hour limit suggested would substantially reduce the usefulness of the rule since it is anticipated that it often will be more than 1 hour between the act and the time the test is taken. This amendment should allow the Administrator to obtain more easily the results of hospital or medical tests performed on a crewmember following an accident or incident.

As discussed under the section entitled "Breath Test," these amendments also allow the Administrator to request the results of tests conducted in accordance with Federal, state, or local laws if there is reason to believe the person may have violated § 91.11. Therefore, § 91.11, as adopted, requires that a crewmember furnish or authorize the release of the results of tests taken under the circumstances described. It should be emphasized, however, that the rules as adopted here do not permit the Administrator to require a person to submit to tests to determine the presence of alcohol or drugs. Note that this amendment does not in any way affect the Administrator's authority to request information under § 67.31 regarding a person's qualification for a medical certificate.

Eligibility After Drug Conviction

Sections 61.15, 63.12, and 65.12 currently provide that no person who is convicted of violating any Federal or state statute relating to the growing, processing, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, or depressant or stimulant drugs or substances is eligible for any certificate or rating issued under Part 61, 63, or 65 for a period of 1 year after final conviction, and that such a conviction is grounds for suspension or revocation of any airman certificate (certificate action) issued under these parts. Notice 81-9 proposed amendments to these sections to provide that a conviction for the violation of a Federal or state statute relating to drugs would be grounds for disqualification or certificate action only when the violation involved the use of an aircraft. The proposal was an attempt to remove disqualification for those convictions that do not evidence a disposition towards the irresponsible exercise of airman privileges.

A number of commenters oppose these proposed amendments, stating that while an airman's violation of a drug statute may not have involved the use of an aircraft, it may still indicate a lack of the high standards of integrity, responsibility, and compliance attitude required of airmen. The FAA has reconsidered the proposal in the light of these

comments. As indicated by several commenters, violations of the drug laws as set forth in the rule may indicate that the applicant would not be compliance-minded regarding the many safety rules in aviation. The courts have supported this view. The United States Court of Appeals for the Ninth Circuit affirmed the revocation of the private pilot certificate held by a man who had been convicted of possessing marihuana for sale. The court held that there was a rational relationship between a conviction for possessing drugs for sale and the potential for unsafe use of an aircraft for drug smuggling in the future. *Walters v. McLucas*, 597 F.2d 1230 (9th Cir. 1979). In another case, the United States Court of Appeals for the District of Columbia Circuit affirmed the revocation of the private pilot certificate of a person who had been convicted of conspiring to import marihuana, even though an aircraft had not been used in illegal or unsafe operations. This court held that there is a rational connection between past drug trafficking and future unsafe aircraft operations. *Rahm v. NTSB*, No. 74-1959 (D.C. Cir. Oct. 1, 1975) (memorandum opinion). The FAA agrees; therefore, this proposal is withdrawn to allow the Administrator to maintain his regulatory authority to take certificate action, when appropriate, against airmen who have been convicted of violating drug laws, whether or not that violation involved the use of an aircraft. This rule is consistent with the President's efforts to combat the illegal use and transportation of drugs.

Sections 61.15(a), 63.12(a), and 65.12(a) also currently make a person ineligible for a new certificate or rating for 1 year after final conviction. These sections make it mandatory that the Administrator deny an application for a new certificate or rating for 1 year after the date of the conviction. However, the current rule provides for but does not require the suspension or revocation of an existing certificate; rather, the Administrator may refrain from such action as appropriate. To provide this same flexibility to applicants for a new certificate or rating, the notice proposed to provide that such a conviction is "grounds for" denial rather than to provide a conviction makes the airman ineligible for a certificate. The intent of the proposal is adopted. By stating such a conviction "is grounds for" denial, the Administrator may use discretion in determining eligibility for a certificate or rating.

There appears to be some confusion over the wording of §§ 61.15(a), 63.12(a), and 65.12(a) regarding the phrase "period of up to 1 year after the date of final conviction." It was not clear to some commenters whether the 1-year period referred to the time in which an application could be denied by the Administrator (that is, in the nature of a statute of limitations) or to the maximum duration of the sanction. The proposal was meant to provide that the denial could last for up to 1 year after the final conviction but not beyond that date. The rule, as adopted, is reorganized to clarify this intent.

As proposed in Notice 81-9, §§ 63.12(b) and 65.12(b) did not provide that the commission of an act prohibited by § 91.11(a) or § 91.12(a) is grounds for revocation or suspension of a certificate or rating issued under Part 63 or Part 65, respectively. These provisions are contained in the current rule and were not intended to be removed. Therefore, §§ 63.12(b) and 65.12(b), as adopted, incorporate these provisions.

Notice 81-9 proposed, in §§ 61.16(b) and 63.12(b), a "minimum 1-year" suspension or revocation of a certificate issued under Part 61 or Part 63, respectively, for violation of § 91.11(c) or (d). The "minimum 1-year" is removed because it is inconsistent with the need for flexibility in enforcing the rule, as previously discussed.

Note that on October 19, 1984, the Aviation Drug-Trafficking Control Act was passed (Pub. L. 98-499). This act, in general, requires the Administrator to revoke the certificates of airmen who have committed certain Federal or state drug felonies involving aircraft. In those cases in which the new Act applies, its provisions will be used. In other cases, the current rules, as amended in this final rule, will apply.

Refusal to Carry Intoxicated Persons

Section 91.11(b) presently provides that, except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or

drugs (except a medical patient under proper care) to be carried in that aircraft. Recognizing the difficulty of interpreting the word "obviously," Notice 81-9 proposed to clarify the rule by referring to a person who demonstrates by manner or physical indications that he or she is under the influence of intoxicating liquors or drugs.

Three commenters oppose the proposed changes in the wording of this regulation as it relates to alcohol. One commenter states that the proposed rule is too strict, since it indicates that a passenger who had only one or two drinks would not be permitted on board because that person would be "under the influence." This commenter suggests that the rule only prohibit boarding of passengers whom the pilot has reason to believe will be a danger, such as those who are violent or angry. Another commenter suggests that wording in § 121.575(c) of the FAR has been effective in its application to Part 121 air carriers and should be used in § 91.11(b). Section 121.575(c) states: "No certificate holder may allow any person to board any of its aircraft if that person appears to be intoxicated." The FAA agrees that the wording "appears to be intoxicated" is appropriate and is more likely to be correctly interpreted. The FAA has therefore added this phrase to the proposed rule and amended § 91.11(b) to provide that no pilot of a civil aircraft may allow any person who appears to be intoxicated, or who demonstrates by manner or physical indication that he or she is under the influence of drugs, to be carried aboard that aircraft.

Regulatory Evaluation

It is expected that these amendments will deter a person from acting or attempting to act as a crewmember while under the influence of alcohol or drugs and will prevent some accidents that might otherwise occur. The exact number, however, is impossible to calculate.

While there might be some minor costs incurred in obtaining the results of tests and submitting them to the Administrator, the economic benefits provided by increased deterrence are greater than the relatively small costs involved.

Conclusion

While a minor cost may be incurred by suspected violators if asked to furnish the results of tests, compliance with these amendments will not impose any other cost or economic burden on airmen. Accordingly, it has been determined that this is not a major regulation under Executive Order 12291. However, this rule is significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since these amendments have a minor cost impact and apply to individuals rather than small entities, I certify that under the criteria of the Regulatory Flexibility Act, these amendments will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

ADOPTION OF THE AMENDMENT

Accordingly, Parts 61, 63, 65, and 91 of the Federal Aviation Regulations (14 CFR Parts 61, 63, 65, and 91) are amended effective June 17, 1985.

(Secs. 313(a), 601, 602, and 609 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1422, and 1429), and 49 U.S.C. 106(g) (Revised, Pub. L. 97-449; January 12, 1983))

Amendment 65-30
Issuance and Renewal of Inspection Authorization
Adopted: April 1, 1985 **Effective: April 19, 1985**

(Published in 50 FR 15698, April 19, 1985)

SUMMARY: This amendment permits persons who have had their mechanic certificates or ratings suspended to be eligible for issuance or renewal of inspection authorizations (IA's) if their mechanic certificates or ratings have been reinstated. This amendment will remove a requirement that is unnecessary as a means of ensuring that only responsible persons exercise IA privileges.

FOR FURTHER INFORMATION CONTACT: Leo Weston, General Aviation and Commercial Branch, AWS-340, Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 426-8205.

SUPPLEMENTARY INFORMATION:

Background

Section 65.93 of the Federal Aviation Regulations (FAR) provides that to be eligible for the renewal of an IA an applicant must present evidence that, among other things, he or she still meets the requirements of § 65.91(c) (1) through (4) for the original issuance of an IA. Before Amendment 65-22 (42 FR 46278; September 15, 1977), § 65.91(c) (1) provided that to be eligible for an IA, an applicant had to be "a certificated mechanic who has held both an airframe and a powerplant rating for at least 3 years before the date he applies." Amendment 65-22 revised paragraph (c) (1) to require that the applicant hold "a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which is currently effective *and has been continuously in effect* for not less than the 3-year period immediately before the date of application." (Emphasis added.)

When renewal was sought under the old rule, the holder of an IA whose mechanic certificate or rating was suspended could still be said to have "held" that certificate during the time of suspension. However, the certificate could not be said to be "in effect" while it was suspended. Accordingly, after Amendment 65-22, the IA could not be renewed at the end of the year because at renewal time (authorization expires on March 31) the mechanic certificate or rating would not have been continuously in effect during the preceding 3 years. Therefore, the mechanic would not be eligible again for an IA until 3 years after the end of the suspension of the mechanic certificate. Moreover, because the eligibility requirements for issuance of a certificate are considered to be continuing requirements which must be met as long as a certificate is held, an IA does not "become effective" again under § 65.91 at the end of the suspension of the mechanic certificate.

At the time Amendment 65-22 was adopted, the FAA was aware that adding the words "continuously in effect" to § 65.91(c) (1) would have this result. It was considered appropriate because the privileges and responsibilities that a person is charged with while holding the IA are greater than those of a certificated mechanic. Under § 65.95, the holder of an IA may inspect and approve for return to service certain aircraft or related parts or appliances after a major repair or major alteration to it in accordance with Part 43 of the FAR and perform annual and progressive inspections. Although a mechanic is authorized to perform much of the associated maintenance work underlying these functions, the IA holder is ultimately responsible for ensuring that the work is done in accordance with the FAR.

This 3-year-long period of ineligibility, however, has had an unintended inhibiting effect on the FAA's enforcement program. Amendment 65-22 has had a significant impact on the action taken against a mechanic for relatively minor to moderate violations. As a result of Amendment 65-22, a short-term suspension of a certificate or rating for a relatively minor offense effectively revokes an IA for a period of 3 years. Further, this

creates the unusual situation where an action for revocation of an IA could have less of an impact on the mechanic involved than a 5-day suspension of a single rating on his or her mechanic certificate. (In most cases, a mechanic whose IA has been revoked may reapply after 1 year.) Not every action that warrants the suspension of a mechanic certificate evidences a lack of responsibility sufficient to justify such a long-term ineligibility for an IA. As a result, enforcement personnel have been reluctant in some cases to produce such results.

In attempting to resolve this problem, the FAA has reviewed the requirement of § 65.91(c) (1) and has determined that it is unnecessary as a means of ensuring that only responsible persons continue to exercise IA privileges. First, the suspension or revocation of a mechanic certificate or rating does result in loss of IA privileges. Section 65.92(a) provides that the holder of an IA may exercise the privileges of that authorization only while he or she holds a currently effective mechanic certificate with both a currently effective airframe rating and a currently effective powerplant rating. In addition, the cause that gave rise to suspension of the IA holder's mechanic certificate or rating may also warrant suspension of an IA for a longer period of time and may even justify revocation of the IA. Revocation of the IA may be justified when the person's actions evidence a lack of responsibility indicating that the mechanic should not be allowed to exercise the inspection and other privileges prescribed by § 65.95. Also, Section 609 of the Federal Aviation Act of 1958, as amended (FAAct), provides that the FAA may reexamine any civil airman, including the holder of an IA. The FAA may reexamine, for instance, when there is reason to believe that the holder of an IA may not be qualified to exercise his or her privileges. If, as a result of this reexamination, the FAA determines that safety in air commerce or air transportation and the public interest require, the FAA may issue an order suspending or revoking the IA. Thus, the cause that gave rise to the suspension of the IA holder's mechanic certificate may also warrant reexamination to determine his or her qualification to hold an IA. The results of this reexamination may warrant suspending or revoking the IA.

DISCUSSION OF THE COMMENTS

Interested persons were afforded the opportunity to participate in the making of this amendment by Notice 84-16 (49 FR 35652; September 11, 1984). Due consideration has been given to all comments presented in response to this Notice.

Sixteen of the 19 public comments received are favorable. Many of these favorable commenters agree that the proposal would reduce an unfair penalty imposed on any IA holder who has had his or her mechanic certificate or rating temporarily suspended by removing the requirement that the certificate and ratings be continuously in effect for 3 years at the time of the IA renewal.

Three commenters who are not in favor of this notice state that any time a certificated mechanic holding an IA has violated the regulations to such an extent as to cause a suspension of the mechanic certificate, that suspension should also affect his or her IA privileges. Two of these commenters state that a mechanic having his or her certificate or a rating suspended should have to prove his or her competency again to the satisfaction of the Administrator.

The FAA agrees, in part, with the above commenters that there are enforcement cases where suspensions or revocations of IA's or reexaminations of IA holders may be necessary. Under the authority of Section 609 of the FAAct, the FAA may reexamine an airman, including the IA. Therefore, when there is a question of an IA holder's qualification to exercise the privileges of the authorization, the FAA may reexamine the airman. Based on this reexamination or any other investigation, the FAA may suspend or revoke the airman's IA. The FAA has determined that its continued ability to suspend or revoke an IA or to reexamine an IA holder, when circumstances warrant, provides adequate protection against unqualified persons exercising IA privileges, without imposing an undue burden on mechanics for minor violations.

One commenter states that this NPRM is a timely response by the FAA to an unintended result of the rulemaking process and that it will relieve a significant burden to both individual certificate holders and the Administrator's enforcement personnel without derogation in air safety.

A professional organization states that the present regulations pose an unnecessary secondary penalty on any holder of an IA who is punished for a slight infraction of the regulations by suspension of either or both of the airframe and powerplant ratings. The organization believes that the public interest will not be compromised and that the economic impact will be positive because a highly trained individual will be returned to the wage-earning rolls more quickly.

Accordingly, the FAA is amending § 65.91 to return to the requirements which existed prior to Amendment 65-22 and is clarifying these requirements to provide that an otherwise eligible applicant need only hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating which have been in effect for a total of at least 3 years. This revision will remove any inequity associated with the renewal process and will provide more flexible and fair enforcement program for IA holders, without derogation of the original certification standards.

REGULATORY ASSESSMENT

This rule will relax an unnecessary requirement for original issuance or renewal of an IA. It also will eliminate a double penalty currently imposed on any IA holder who, as a result of a suspension, becomes ineligible for renewal solely because his or her mechanic certificate or ratings were not continuously in effect during the 3-year period preceding the annual IA renewal.

This rule will not impose any costs, other than the cost of publishing the rule. Benefits of the proposed rule will accrue from the elimination of income loss due to an individual's not being permitted to renew an IA for 3 years from the date of a suspension. The actual benefits will be inconsequential because, once the full impact of the current rule was fully realized, the FAA imposed few suspensions on IA holders. Thus, very few IA holders actually will be affected by this rule. Comments to the NPRM did not disclose any data or facts to contradict this position. In light of the lack of costs and benefits, the FAA finds that a regulatory evaluation is not warranted.

Trade Impact Assessment

This rule will have no impact on trade opportunities for either U.S. firms doing business overseas or foreign firms doing business in the United States.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to ensure, among other things, that small entities are not disproportionately affected by Government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

This amendment will relax requirements for issuance and renewal of an IA and will impose no additional burden. Further, the number of persons who would be unable to renew their IA's if the current rule is not changed is minimal compared with the total number of IA holders.

The FAA finds that this rule will not have a significant economic impact, either beneficial or detrimental, on a substantial number of small entities. Therefore, a regulatory flexibility determination is not required.

NEED FOR IMMEDIATE ADOPTION

This amendment will provide immediate relief and reduce a regulatory burden on persons who have had their mechanic certificates or ratings suspended by permitting them to be eligible for issuance or renewal of their IA's provided their mechanic certificate or ratings have been reinstated.

Immediate adoption will permit persons who have had their mechanic certificates or ratings suspended since the last IA renewal date (March 31) to be eligible again on the following year's renewal date provided they meet all of the requirements of §§ 65.91, 65.92, and 65.93 of the FAR.

This amendment will also permit persons who had previously become ineligible for a 3-year period, because of suspension of their mechanic certificates or ratings, to immediately become eligible for issuance of IA's provided that their mechanic certificates or ratings have been reinstated and they meet the requirements of § 65.91 of the FAR.

Finally, adoption of this amendment will not impose any burden on persons affected. Therefore, for these reasons, I find that good cause exists for making this amendment effective in fewer than 30 days.

Conclusion

This amendment will relax the requirements for initial issuance and renewal of an inspection authorization and this will not impose an additional burden on any person. Accordingly, it has been determined that this action is not a major rule under Executive Order 12291, and it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). For these reasons and because the number of persons who would be unable to renew their IA's if the current rule is not changed is minimal in comparison to the total number of IA holders, I certify that under the criteria of the Regulatory Flexibility Act, this proposal will not have a significant economic impact, positive or negative, on a substantial number of small entities. In addition, the FAA has determined that the expected economic impact of this proposal is so minimal that a full regulatory evaluation is not required.

ADOPTION OF THE AMENDMENT

Accordingly, § 65.91 of the Federal Aviation Regulations (14 CFR 65.91) is amended effective April 19, 1985.

(Secs. 313(a), 314(a), 601, 602, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1355(a), 1421, 1422, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983))

Part 65—Certification: Airmen Other Than Flight Crewmembers

Subpart A—General

§ 65.1 Applicability.

This Part prescribes the requirements for issuing the following certificates and associated ratings and the general operating rules for the holders of those certificates and ratings:

(a) Air traffic control tower operators.

(b) Aircraft dispatchers.

(c) Mechanics.

(d) Repairmen.

(e) Parachute riggers.

§ 65.3 Certification of foreign airmen other than flight crewmembers.

A person who is neither a U.S. citizen nor a resident alien is issued a certificate under Subpart D of this Part, outside the United States, only when the Administrator finds that the certificate is needed for the operation or continued airworthiness of a U.S.-registered civil aircraft.

§ 65.11 Application and issue.

(a) Application for a certificate and appropriate class rating, or for an additional rating, under this Part must be made on a form and in a manner prescribed by the Administrator. Each person who is neither a U.S. citizen nor a resident alien and who applies for a written or practical test to be administered outside the United States or for any certificate or rating issued under this Part must show evidence that the fee prescribed in Appendix A of Part 187 of this chapter has been paid.

(b) An applicant who meets the requirements of this Part is entitled to an appropriate certificate and rating.

(c) Unless authorized by the Administrator, a person whose air traffic control tower operator, mechanic, or parachute rigger certificate is suspended may not apply for any rating to be added to that certificate during the period of suspension.

(d) Unless the order of revocation provides otherwise—

(1) A person whose air traffic control tower operator, aircraft dispatcher, or parachute rigger certificate is revoked may not apply for the same kind of certificate for one year after the date of revocation; and

(2) A person whose mechanic or repairman certificate is revoked may not apply for either of those kinds of certificates for one year after the date of revocation.

[§ 65.12 Offenses involving alcohol or drugs.

[(a) A conviction for the violation of any Federal or state statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, or depressant or stimulant drugs or substances is grounds for—

[(1) Denial of an application for any certificate or rating issued under this Part for a period of up to 1 year after the date of final conviction; or

[(2) Suspension or revocation of any certificate or rating issued under this Part.

[(b) The commission of an act prohibited by § 91.12(a) of this chapter is grounds for—

[(1) Denial of an application for a certificate or rating issued under this Part for a period of up to 1 year after the date of that act; or

[(2) Suspension or revocation of any certificate or rating issued under this Part.]

§ 65.13 Temporary certificate.

A certificate and ratings effective for a period of not more than 120 days may be issued to a qualified applicant, pending review of his ap-

plication and supplementary documents and the issue of the certificate and ratings for which he applied.

65.15 Duration of certificates.

(a) Except for repairman certificates, a certificate or rating issued under this Part is effective until it is surrendered, suspended, or revoked.

(b) Unless it is sooner surrendered, suspended, or revoked, a repairman certificate is effective until the holder is relieved from the duties for which the holder was employed and certificated.

(c) The holder of a certificate issued under this Part that is suspended, revoked, or no longer effective shall return it to the Administrator.

§ 65.15a [Reserved]

§ 65.16 Change of name; replacement of lost or destroyed certificate.

(a) An application for a change of name on a certificate issued under this Part must be accompanied by the applicant's current certificate and the marriage license, court order, or other document verifying the change. The documents are returned to the applicant after inspection.

(b) An application for a replacement of a lost or destroyed certificate is made by letter to the Department of Transportation, Federal Aviation Administration, Airman Certification Branch, P.O. Box 25082, Oklahoma City, Okla. 73125. The letter must—

(1) Contain the name in which the certificate was issued, the permanent mailing address (including zip code), social security number (if any), and date and place of birth of the certificate holder, and any available information regarding the grade, number, and date of issue of the certificate, and the ratings on it; and

(2) Be accompanied by a check or money order for $2.00, payable to the Federal Aviation Administration.

(c) An application for a replacement of a lost or destroyed medical certificate is made byletter to the Department of Transportation, Federal Aviation Administration, Civil Aeromedical Institute, Aeromedical Certification Branch, P.O. Box 25082, Oklahoma City, Okla. 73125, accompanied by a check or money order for $2.00.

(d) A person whose certificate issued under this Part or medical certificate, or both, has been lost may obtain a telegram from the FAA confirming that it was issued. The telegram may be carried as a certificate for a period not to exceed 60 days pending his receiving a duplicate certificate under paragraph (b) or (c) of this section, unless he has been notified that the certificate has been suspended or revoked. The request for such a telegram may be made by prepaid telegram, stating the date upon which a duplicate certificate was requested, or including the request for a duplicate and a money order for the necessary amount. The request for a telegraphic certificate should be sent to the office prescribed in paragraph (b) or (c) of this section, as appropriate. However, a request for both at the same time should be sent to the office prescribed in paragraph (b) of this section.

§ 65.17 Tests: general procedure.

(a) Tests prescribed by or under this Part are given at times and places, and by persons, designated by the Administrator.

(b) The minimum passing grade for each test is 70 percent.

§ 65.18 Written tests: cheating or other unauthorized conduct.

(a) Except as authorized by the Administrator, no person may—

(1) Copy, or intentionally remove, a written test under this Part;

(2) Give to another, or receive from another, any part or copy of that test;

(3) Give help on that test to, or receive help on that test from, any person during the period that test is being given;

(4) Take any part of that test in behalf of another person;

(5) Use any material or aid during the period that test is being given; or

(6) Intentionally cause, assist, or participate in any act prohibited by this paragraph.

(b) No person who commits an act prohibited by paragraph (a) of this section is eligible for any airman or ground instructor

certificate or rating under this chapter for a period of one year after the date of that act. In addition, the commission of that act is a basis for suspending or revoking any airman or ground instructor certificate or rating held by that person.

§ 65.19 Retesting after failure.

An applicant for a written, oral, or practical test for a certificate and rating, or for an additional rating under this Part, may apply for retesting—

(a) After 30 days after the date the applicant failed the test; or

(b) Before the 30 days have expired if the applicant presents a signed statement from an airman holding the certificate and rating sought by the applicant, certifying that the airman has given the applicant additional instruction in each of the subjects failed and that the airman considers the applicant ready for retesting.

§ 65.20 Applications, certificates, logbooks, reports, and records: falsification, reproduction, or alteration.

(a) No person may make or cause to be made—

(1) Any fraudulent or intentionally false statement on any application for a certificate or rating under this Part;

(2) Any fraudulent or intentionally false entry in any logbook, record, or report that is required to be kept, made, or used, to show compliance with any requirement for any certificate or rating under this Part;

(3) Any reproduction, for fraudulent purpose, of any certificate or rating under this Part; or

(4) Any alteration of any certificate or rating under this Part.

(b) The commission by any person of an act prohibited under paragraph (a) of this section is a basis for suspending or revoking any airman or ground instructor certificate or rating held by that person.

§ 65.21 Change of address.

Within 30 days after any change in his permanent mailing address, the holder of a certificate issued under this Part shall notify the Department of Transportation, Federal Aviation Administration, Airman Certification Branch, P.O. Box 25082, Oklahoma City, Okla. 73125 in writing, of his new address.

Subpart B—Air Traffic Control Tower Operators

§ 65.31 [Required certificates, and rating or qualification.]

No person may act as an air traffic control tower operator at an air traffic control tower in connection with civil aircraft unless he—

[(a) Holds an air traffic control tower operator certificate issued to him under this subpart;

[(b) Holds a facility rating for that control tower issued to him under this subpart, or has qualified for the operating position at which he acts and is under the supervision of the holder of a facility rating for that control tower.

[For the purpose of this subpart, "operating position" means an air traffic control function performed within or directly associated with the control tower; and

[(c) Except for a person employed by the FAA, holds at least a second class medical certificate issued under Part 67 of this chapter.]

§ 65.33 Eligibility requirements: general.

To be eligible for an air traffic control tower operator certificate, a person must—

(a) Be at least 18 years of age;

(b) Be of good moral character;

(c) Be able to read, write, and understand the English language and speak it without accent or impediment of speech that would interfere with 2-way radio conversation;

[(d) Except for a person employed by the FAA, hold at least a second-class medical certificate issued under Part 67 of this chapter within the 12 months before the date application is made; and]

(e) Comply with § 65.35.

§ 65.35 Knowledge requirements.

Each applicant for an air traffic control tower operator certificate must pass a written test on—

(a) The flight rules in Part 91 of this chapter;

(b) Airport traffic control procedures, and this subpart;

(c) En route traffic control procedures;

(d) Communications operating procedures;

(e) Flight assistance service;

(f) Air navigation, and aids to air navigation; and

(g) Aviation weather.

§ 65.37 Skill requirements: operating positions.

No person may act as an air traffic control tower operator at any operating position unless he has passed a practical test on—

(a) Control tower equipment and its use;

(b) Weather reporting procedures and use of reports;

(c) Notices to Airmen, and use of the Airman's Information Manual;

(d) Use of operational forms;

(e) Performance of noncontrol operational duties; and

(f) Each of the following procedures that is applicable to that operating position and is required by the person examining him:

(1) The airport, including rules, equipment, runways, taxiways, and obstructions.

(2) The control zone, including terrain features, visual checkpoints, and obstructions.

(3) Traffic patterns and associated procedures for use of preferential runways and noise abatement.

(4) Operational agreements.

(5) The center, alternate airports, and those airways, routes, reporting points, and air navigation aids used for terminal air traffic control.

(6) Search and rescue procedures.

(7) Terminal air traffic control procedures and phraseology.

(8) Holding procedures, prescribed instrument approach, and departure procedures.

(9) Radar alignment and technical operation.

(10) The application of the prescribed radar and nonradar separation standard, as appropriate.

§ 65.39 Practical experience requirements; facility rating.

Each applicant for a facility rating at any air traffic control tower must have satisfactorily served—

(a) As an air traffic control tower operator at that control tower without a facility rating for at least 6 months; or

(b) As an air traffic control tower operator with a facility rating at a different control tower for at least 6 months before the date he applies for the rating.

However, an applicant who is a member of an Armed Force of the United States meets the requirements of this section if he has satisfactorily served as an air traffic control tower operator for at least 6 months.

§ 65.41 Skill requirements: facility ratings.

Each applicant for a facility rating at an air traffic control tower must have passed a practical test on each item listed in § 65.37 of this Part that is applicable to each operating position at the control tower at which the rating is sought.

§ 65.43 Rating privileges and exchange.

(a) The holder of a senior rating on August 31, 1970, may at any time after that date ex-

change his rating for a facility rating at the same air traffic control tower. However, if he does not do so before August 31, 1971, he may not thereafter exercise the privileges of his senior rating at the control tower concerned until he makes the exchange.

(b) The holder of a junior rating on August 31, 1970, may not control air traffic, at any operating position at the control tower concerned, until he has met the applicable requirements of § 65.37 of this Part. However, before meeting those requirements he may control air traffic under the supervision, where required, of an operator with a senior rating (or facility rating) in accordance with § 65.41 of this Part in effect before August 31, 1970.

§ 65.45 Performance of duties.

(a) An air traffic control tower operator shall perform his duties in accordance with the limitations on his certificate and the procedures and practices prescribed in air traffic control manuals of the FAA, to provide for the safe, orderly, and expeditious flow of air traffic.

(b) An operator with a facility rating may control traffic at any operating position at the control tower at which he holds a facility rating. However, he may not issue an air traffic clearance for IFR flight without authorization from the appropriate facility exercising IFR control at that location.

(c) An operator who does not hold a facility rating for a particular control tower may act at each operating position for which he has qualified, under the supervision of an operator holding a facility rating for that control tower.

§ 65.47 Maximum hours.

Except in an emergency, a certificated air traffic control tower operator must be relieved of all duties for at least 24 consecutive hours at least once during each 7 consecutive days. Such an operator may not serve or be required to serve—

(a) For more than 10 consecutive hours; or

(b) For more than 10 hours during a period of 24 consecutive hours, unless he has had a rest period of at least 8 hours at or before the end of the 10 hours of duty.

§ 65.49 General operating rules.

(a) No person may act as an air traffic control tower operator under a certificate issued to him under this Part unless he has in his personal possession an appropriate current medical certificate issued under Part 67 of this chapter.

(b) Each person holding an air traffic control tower operator certificate shall keep it readily available when performing duties in an air traffic control tower, and shall present that certificate or his medical certificate or both for inspection upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

(c) A certificated air traffic control tower operator who does not hold a facility rating for a particular control tower may not act at any operating position at the control tower concerned unless there is maintained at that control tower, readily available to persons named in paragraph (b), a current record of the operating positions at which he has qualified.

(d) An air traffic control tower operator may not perform duties under his certificate during any period of known physical deficiency that would make him unable to meet the physical requirements for his current medical certificate. However, if the deficiency is temporary, he may perform duties that are not affected by it whenever another certificated and qualified operator is present and on duty.

(e) A certificated air traffic control tower operator may not control air traffic with equipment that the Administrator has found to be inadequate.

(f) The holder of an air traffic control tower operator certificate, or an applicant for one, shall, upon the reasonable request of the Administrator, cooperate fully in any test that is made of him.

§ 65.50 Currency requirements.

The holder of an air traffic control tower operator certificate may not perform any duties under that certificate unless—

(a) He has served for at least 3 of the preceding 6 months as an air traffic control tower operator at the control tower to which his facility rating applies, or at the operating positions for which he has qualified; or

(b) He has shown that he meets the requirements for his certificate and facility rating at the control tower concerned, or for operating at positions for which he has previously qualified.

Subpart C—Aircraft Dispatchers

§ 65.51 Certificate required.

(a) No person may serve as an aircraft dispatcher (exercising responsibility with the pilot in command in the operational control of a flight) in connection with any civil aircraft in air commerce unless he has in his personal possession a current aircraft dispatcher certificate issued under this subpart.

(b) Each person who holds an aircraft dispatcher certificate shall present it for inspection upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

§ 65.53 Eligibility requirements: general.

To be eligible for an aircraft dispatcher certificate, a person must—

(a) Be at least 23 years of age;

(b) Be able to read, speak, and understand the English language, or have an appropriate limitation placed on his certificate;

(c) Comply with §§ 65.55, 65.57, and 65.59.

§ 65.55 Knowledge requirements.

(a) An applicant for an aircraft dispatcher certificate must pass a written test on—

(1) The regulations of this chapter that apply to the duties of an aircraft dispatcher;

(2) The general system of collecting and disseminating weather information;

(3) Interpreting aviation weather reports, including abbreviations and symbols, as prescribed in National Weather Service Federal Meteorological Handbook No. 1 as amended;

(4) The fundamentals of meteorology as applied to aircraft operations, particularly as to—

(i) Surface and upper air weather maps and general characteristics of air masses, pressure systems, and frontal systems, including their symbols and nomenclature;

(ii) Cloud forms and their significance; and

(iii) Icing, turbulence, thunderstorms, fog and low ceilings, winds aloft, pressure pattern flying, the influence of terrain on meteorological conditions, and general principles of forecasting and analysis;

(5) Principles of aircraft navigation with particular respect to instrument operation and procedures;

(6) Communications facilities and procedures;

(7) Air navigation facilities and procedures; and

(8) Air traffic control procedures.

(b) A report of the test is sent to the applicant. A passing grade is evidence, for a period of 24 months after the date the test is given, that the applicant has complied with this section.

§ 65.57 Experience requirements.

An applicant for an aircraft dispatcher certificate must present documentary evidence satisfactory to the Administrator that he has the experience prescribed in any one of the following paragraphs:

(a) A total of at least 2 of the 3 years before the date he applies, in scheduled air carrier operations, scheduled military aviation operations, or any other aircraft operations that the Administrator finds provides equivalent experience—

(1) As a pilot member of a flight crew;

(2) As a flight radio operator or ground radio operator;

(3) As a flight navigator;

(4) As a meteorologist;

(5) Performing the duties of an aircraft dispatcher or his assistant; or

(6) Performing other duties that the Administrator finds provide equivalent experience.

(b) A total of at least 2 of the 3 years before the date he applies, as an air route traffic controller or a certificated air traffic control tower operator.

(c) A total of at least 1 of the 2 years before the date he applies, as an assistant in dispatching scheduled air carrier aircraft performing the duties of an aircraft dispatcher under the direct supervision of a certificated dispatcher.

(d) Within 90 days before the date he applies, successful completion of a course of instruction approved by the Administrator as adequate for the training of an aircraft dispatcher.

An applicant is entitled to credit any combination of experience in paragraph (a), or paragraphs (a) and (b), of this section, if the aggregate of that experience is at least 2 years.

§ 65.59 Skill requirements.

An applicant for an aircraft dispatcher certificate must pass a practical test—

(a) With respect to any one type of large aircraft used in air carrier operations, on—

(1) Weight and balance limitations;

(2) Performance operating limitations;

(3) Using cruise control charts;

(4) Fuel and oil capacities and rates of consumption; and

(5) Using the operations manual,

(b) On the characteristics of air routes and airports with particular reference to—

(1) Landing areas;

(2) Lighting facilities; and

(3) Approach and landing facilities and procedures;

(c) On the use and limitations of sensitive-type altimeters;

(d) On applying available weather forecasts and reports to determine whether a flight can be made safely;

(e) On using the *Airman's Guide* and the *Flight Information Manual;*

(f) On dispatching and assisting a flight under adverse weather conditions; and

(g) On emergency procedures.

§ 65.61 Aircraft dispatcher courses.

An applicant for approval of an aircraft dispatcher course shall submit a letter to the Administrator requesting approval, and shall also submit three copies of the course outline, a description of his equipment and facilities and a list of the instructors and their qualifications. Requirements for the course and the outline are set forth in Appendix A to this Part.

Subpart D—Mechanics

§ 65.71 Eligibility requirements: general.

(a) To be eligible for a mechanic certificate and associated ratings, a person must—

(1) Be at least 18 years of age;

(2) Be able to read, write, speak, and understand the English language, or in the case of an applicant who does not meet this requirement and who is employed outside of the United States by a U.S. air carrier, have his certificate endorsed "Valid only outside the United States";

(3) Have passed all of the prescribed tests within a period of 24 months; and

(4) Comply with the sections of this subpart that apply to the rating he seeks.

(b) A certificated mechanic who applies for an additional rating must meet the requirements of § 65.77 and, within a period of 24 months, pass the tests prescribed by §§ 65.75 and 65.79 for the additional rating sought.

§ 65.73 Ratings.

(a) The following ratings are issued under this subpart:

(1) Airframe.

(2) Powerplant.

(b) A mechanic certificate with an aircraft or aircraft engine rating, or both, that was issued before, and was valid on, June 15, 1952,

is equal to a mechanic certificate with an airframe or powerplant rating, or both, as the case may be, and may be exchanged for such a corresponding certificate and rating or ratings.

§ 65.75 Knowledge requirements.

(a) Each applicant for a mechanic certificate or rating must, after meeting the applicable experience requirements of § 65.77, pass a written test covering the construction and maintenance of aircraft appropriate to the rating he seeks, the regulations in this subpart, and the applicable provisions of Parts 43 and 91 of this chapter. The basic principles covering the installation and maintenance of propellers are included in the powerplant test.

(b) The applicant must pass each section of the test before applying for the oral and practical tests prescribed by § 65.79. A report of the written test is sent to the applicant.

§ 65.77 Experience requirements.

Each applicant for a mechanic certificate or rating must present either an appropriate graduation certificate or certificate of completion from a certificated aviation maintenance technician school or documentary evidence, satisfactory to the Administrator, of—

(a) At least 18 months of practical experience with the procedures, practices, materials, tools, machine tools, and equipment generally used in constructing, maintaining, or altering airframes, or powerplants appropriate to the rating sought; or

(b) At least 30 months of practical experience concurrently performing the duties appropriate to both the airframe and powerplant ratings.

§ 65.79 Skill requirements.

Each applicant for a mechanic certificate or rating must pass an oral and a practical test on the rating he seeks. The tests cover the applicant's basic skill in performing practical projects on the subjects covered by the written test for that rating. An applicant for a powerplant rating must show his ability to make satisfactory minor repairs to, and minor alterations of, propellers.

§ 65.80 Certificated aviation maintenance technician school students.

Whenever an aviation maintenance technician school certificated under Part 147 of this chapter shows to an FAA inspector that any of its students has made satisfactory progress at the school and is prepared to take the oral and practical tests prescribed by § 65.79, that student may take those tests during the final subjects of his training in the approved curriculum, before he meets the applicable experience requirements of § 65.77 and before he passes each section of the written test prescribed by § 65.75.

§ 65.81 General privileges and limitations.

(a) A certificated mechanic may perform or supervise the maintenance [,preventive maintenance,] or alteration of an aircraft or appliance, or a part thereof, for which he is rated (but excluding major repairs to, and major alterations of, propellers, and any repair to, or alteration of, instruments), and may perform additional duties in accordance with §§ 65.85, 65.87, and 65.95. However, he may not supervise the maintenance [,preventive maintenance] or alteration of, or approve and return to service, any aircraft or appliance, or part thereof, for which he is rated unless he has satisfactorily performed the work concerned at an earlier date. If he has not so performed that work at an earlier date, he may show his ability to do it by performing it to the satisfaction of the Administrator or under the direct supervision of a certificated and appropriately rated mechanic, or a certificated repairman, who has had previous experience in the specific operation concerned.

(b) A certificated mechanic may not exercise the privileges of his certificate and rating unless he understands the current instructions of the manufacturer, and the maintenance manuals, for the specific operation concerned.

§ 65.83 Recent experience requirements.

A certificated mechanic may not exercise the privileges of his certificate and rating unless, within the preceding 24 months—

(a) The Administrator has found that he is able to do that work; or

(b) He has, for at least 6 months—

(1) Served as a mechanic under his certificate and rating;

(2) Technically supervised other mechanics;

(3) Supervised, in an executive capacity, the maintenance or alteration of aircraft; or

(4) Been engaged in any combination of subparagraphs (1), (2), or (3) of this paragraph.

§ 65.85 Airframe rating: additional privileges.

A certificated mechanic with an airframe rating may approve and return to service an airframe, or any related part or appliance, after he has performed, supervised, or inspected its maintenance or alteration (excluding major repairs and major alterations). In addition, he may perform the 100-hour inspection required by Part 91 of this chapter on an airframe, or any related part or appliance, and approve and return it to service.

§ 65.87 Powerplant rating: additional privileges.

A certificated mechanic with a powerplant rating may approve and return to service a powerplant or propeller or any related part or appliance, after he has performed, supervised, or inspected its maintenance or alteration (excluding major repairs and major alterations). In addition, he may perform the 100-hour inspection required by Part 91 of this chapter on a powerplant or propeller, or any part thereof, and approve and return it to service.

§ 65.89 Display of certificate.

Each person who holds a mechanic certificate shall keep it within the immediate area where he normally exercises the privileges of the certificate and shall present it for inspection upon request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

§ 65.91 Inspection authorization.

(a) An application for an inspection authorization is made on a form and in a manner prescribed by the Administrator.

(b) An applicant who meets the requirements of this section is entitled to an inspection authorization.

(c) To be eligible for an inspection authorization, an applicant must—

[(1) Hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which is currently effective and has been in effect for a total of at least 3 years;]

(2) Have been actively engaged, for at least the 2-year period before the date he applies, in maintaining aircraft certificated and maintained in accordance with this chapter;

(3) Have a fixed base of operations at which he may be located in person or by telephone during a normal working week, but it need not be the place where he will exercise his inspection authority;

(4) Have available to him the equipment, facilities, and inspection data necessary to properly inspect airframes, powerplants, propellers, or any related part or appliance; and

(5) Pass a written test on his ability to inspect according to safety standards for returning aircraft to service after major repairs and major alterations and annual and progressive inspection performed under Part 43 of this chapter.

An applicant who fails the test prescribed in subparagraph (5) of this paragraph may not apply for retesting until at least 90 days after the date he failed the test.

(d) [Reserved]

§ 65.92 Inspection authorization: duration.

(a) Each inspection authorization expires on March 31 of each year. However, the holder may exercise the privileges of that authorization only while he holds a currently effective mechanic certificate with both a currently effective airframe rating and a currently effective powerplant rating.

(b) An inspection authorization ceases to be effective whenever any of the following occurs:

(1) The authorization is surrendered, suspended, or revoked.

(2) The holder no longer has a fixed base of operation.

(3) The holder no longer has the equipment, facilities, and inspection data required by § 65.91(c)(3) and (4) for issuance of his authorization.

(c) The holder of an inspection authorization that is suspended or revoked shall, upon the Administrator's request, return it to the Administrator.

§ 65.93 Inspection authorization: renewal.

[(a) To be eligible for renewal of an inspection authorization for a 1-year period an applicant must present evidence annually, during the month of March, at an FAA General Aviation District Office, a Flight Standards District office, or an International Field Office that the applicant still meets the requirements of § 65.91(c)(1) through (4) and must show that, during the current period that the applicant held the inspection authorization, the applicant—

[(1) Has performed at least one annual inspection for each 90 days that the applicant held the current authority; or

[(2) Has performed inspections of at least two major repairs or major alterations for each 90 days that the applicant held the current authority; or

[(3) Has performed or supervised and approved at least one progressive inspection in accordance with standards prescribed by the Administrator; or

[(4) Has attended and successfully completed a refresher course, acceptable to the Administrator, of not less than 8 hours of instruction during the 12-month period preceding the application for renewal; or

[(5) Has passed an oral test by an FAA inspector to determine that the applicant's knowledge of applicable regulations and standards is current.

[(b) The holder of an inspection authorization that has been in effect for less than 90 days before the expiration date need not comply with paragraphs (a)(1) through (5) of this section.]

§ 65.95 Inspection authorization: privileges and limitations.

(a) The holder of an inspection authorization may—

(1) Inspect and approve for return to service any aircraft or related part or appliance (except any aircraft maintained in accordance with a continuous airworthiness program under Part 121 or 127 of this chapter) after a major repair or major alteration to it in accordance with Part 43 of this chapter, if the work was done in accordance with technical data approved by the Administrator.

(2) Perform an annual, or perform or supervise a progressive inspection according to §§ 43.13 and 43.15 of this chapter.

(b) When he exercises the privileges of an inspection authorization the holder shall keep it available for inspection by the aircraft owner, the mechanic submitting the aircraft, repair, or alteration for approval (if any), and shall present it upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

(c) If the holder of an inspection authorization changes his fixed base of operation, he may not exercise the privileges of the authorization until he has notified the FAA General Aviation District Office or International Field Office for the area in which the new base is located, in writing, of the change.

Subpart E—Repairmen

§ 65.101 Eligibility requirements: general.

(a) To be eligible for a repairman certificate a person must—

(1) Be at least 18 years of age;

(2) Be specially qualified to perform maintenance on aircraft or components

thereof, appropriate to the job for which he is employed;

(3) Be employed for a specific job requiring those special qualifications by a certificated repair station, or by a certificated commercial operator or certificated air carrier, that is required by its operating certificate or approved operations specification to provide a continuous airworthiness maintenance program according to its maintenance manuals;

(4) Be recommended for certification by his employer, to the satisfaction of the Administrator, as able to satisfactorily maintain aircraft or components, appropriate to the job for which he is employed;

[(5) Have either—

[(i) At least 18 months of practical experience in the procedures, practices, inspection methods, materials, tools, machine tools, and equipment generally used in the maintenance duties of the specific job for which the person is to be employed and certificated; or

[(ii) Completed formal training that is acceptable to the Administrator and is specifically designed to qualify the applicant for the job on which the applicant is to be employed; and]

(6) Be able to read, write, speak, and understand the English language, or, in the case of an applicant who does not meet this requirement and who is employed outside the United States by a certificated repair station, a certificated U.S. commercial operator, or a certificated U.S. air carrier, described in paragraph (c) of this section, have his certificate endorsed "Valid only outside the United States."

(b) This section does not apply to the issuance of repairman certificates (experimental aircraft builder) under § 65.104.

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§ 65.103 Repairman certificate: privileges and limitations.

(a) A certificated repairman may perform or supervise the maintenance, preventive maintenance, or alteration of aircraft or aircraft components appropriate to the job for which the repairman was employed and certificated, but only in connection with duties for the certificate holder by whom the repairman was employed and recommended.

(b) A certificated repairman may not perform or supervise duties under the repairman certificate unless the repairman understands the current instructions of the certificate holder by whom the repairman is employed and the manufacturer's instructions for continued airworthiness relating to the specific operations concerned.

§ 65.104 Repairman certificate (experimental aircraft builder)—eligibility, privileges and limitations.

(a) To be eligible for a repairman certificate (experimental aircraft builder), an individual must—

(1) Be at least 18 years of age;

(2) Be the primary builder of the aircraft to which the privileges of the certificate are applicable;

(3) Show to the satisfaction of the Administrator that the individual has the requisite skill to determine whether the aircraft is in a condition for safe operations; and

(4) Be a citizen of the United States or an individual citizen of a foreign country who has lawfully been admitted for permanent residence in the United States.

(b) The holder of a repairman certificate (experimental aircraft builder) may perform condition inspections on the aircraft constructed by the holder in accordance with the operating limitations of that aircraft.

(c) Section 65.103 does not apply to the holder of a repairman certificate (experimental aircraft builder) while performing under that certificate.

§ 65.105 Display of certificate.

Each person who holds a repairman certificate shall keep it within the immediate area where he normally exercises the privileges of the certificate and shall present it for inspection upon the request of the Adminstrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

Subpart F—Parachute Riggers

§ 65.111 Certificate required.

(a) No person may pack, maintain, or alter any personnel-carrying parachute intended for emergency use in connection with civil aircraft of the United States (including the auxiliary parachute of a dual parachute pack to be used for intentional jumping) unless he holds an appropriate current certificate and type rating issued under this subpart and complies with §§ 65.127 through 65.133.

(b) No person may pack, maintain, or alter any main parachute of a dual parachute pack

to be used for intentional jumping in connection with civil aircraft of the United States unless he has an appropriate current certificate issued under this subpart. However, a person who does not hold such a certificate may pack the main parachute of a dual parachute pack that is to be used by him for intentional jumping.

(c) Each person who holds a parachute rigger certificate shall present it for inspection upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcemen officer.

(d) The following parachute rigger certificates are issued under this Part:

(1) Senior parachute rigger.

(2) Master parachute rigger.

(e) Sections 65.127 through 65.133 do not apply to parachutes packed, maintained, or altered for the use of the Armed Forces.

§ 65.113 Eligibility requirements: general.

(a) To be eligible for a parachute rigger certificate, a person must—

(1) Be at least 18 years of age;

(2) Be able to read, write, speak, and understand the English language, or in the case of a citizen of Puerto Rico, or a person who is employed outside of the United States by a U.S. air carrier, and who does not meet this requirement, be issued a certificate that is valid only in Puerto Rico or while he is employed outside of the United States by that air carrier, as the case may be; and

(3) Comply with the sections of this subpart that apply to the certificate and type rating he seeks.

(b) Except for a master parachute rigger certificate, a parachute rigger certificate that was issued before, and was valid on, October 31, 1962, is equal to a senior parachute rigger certificate, and may be exchanged for such a corresponding certificate.

§ 65.115 Senior parachute rigger certificate: experience, knowledge, and skill requirements.

Except as provided in § 65.117, an applicant for a senior parachute rigger certificate must—

(a) Present evidence satisfactory to the Administrator that he has packed at least 20 parachutes of each type for which he seeks a rating, in accordance with the manufacturer's instructions and under the supervision of a certificated parachute rigger holding a rating for that type or a person holding an appropriate military rating;

(b) Pass a written test, with respect to parachutes in common use, on—

(1) Their construction, packing, and maintenance;

(2) The manufacturer's instructions;

(3) The regulations of this subpart; and

(c) Pass an oral and practical test showing his ability to pack and maintain at least one type of parachute in common use, appropriate to the type rating he seeks.

§ 65.117 Military riggers or former military riggers: special certification rule.

In place of the procedure in § 65.115, an applicant for a senior parachute rigger certificate is entitled to it if he passes a written test on the regulations of this subpart and presents satisfactory documentary evidence that he—

(a) Is a member or civilian employee of an Armed Force of the United States, is a civilian employee of a regular armed force of a foreign country, or has, within the 12 months before he applies, been honorably discharged or released from any status covered by this paragraph;

(b) Is serving, or has served within the 12 months before he applies, as a parachute rigger for such an Armed Force; and

(c) Has the experience required by § 65.115 (a).

§ 65.119 Master parachute rigger certificate: experience, knowledge, and skill requirements.

An applicant for a master parachute rigger certificate must meet the following requirements:

(a) Present evidence satisfactory to the Administrator that he has had at least 3 years of experience as a parachute rigger and has satisfactorily packed at least 100 parachutes of each of two types in common use, in accordance with the manufacturer's instructions—

(1) While a certificated and appropriately rated senior parachute rigger; or

(2) While under the supervision of a certificated and appropriately rated para-

chute rigger or a person holding appropriate military ratings.

An applicant may combine experience specified in subparagraphs (1) and (2) of this paragraph to meet the requirements of this paragraph.

(b) If the applicant is not the holder of a senior parachute rigger certificate, pass a written test, with respect to parachutes in common use, on—

(1) Their construction, packing, and maintenance;

(2) The manufacturer's instructions; and

(3) The regulations of this subpart.

(c) Pass an oral and practical test showing his ability to pack and maintain two types of parachutes in common use, appropriate to the type of ratings he seeks.

§ 65.121 Type ratings.

(a) The following type ratings are issued under this subpart:

(1) Seat.
(2) Back.
(3) Chest.
(4) Lap.

(b) The holder of a senior parachute rigger certificate who qualifies for a master parachute rigger certificate is entitled to have placed on his master parachute rigger certificate the ratings that were on his senior parachute rigger certificate.

§ 65.123 Additional type ratings: requirements.

A certificated parachute rigger who applies for an additional type rating must—

(a) Present evidence satisfactory to the Administrator that he has packed at least 20 parachutes of the type for which he seeks a rating, in accordance with the manufacturer's instructions and under the supervision of a certificated parachute rigger holding a rating for that type or a person holding an appropriate military rating; and

(b) Pass a practical test, to the satisfaction of the Administrator, showing his ability to pack and maintain the type of parachute for which he seeks a rating.

§ 65.125 Certificates: privileges.

(a) A certificated senior parachute rigger may—

(1) Pack or maintain (except for major repair) any type of parachute for which he is rated; and

(2) Supervise other persons in packing any type of parachute for which he is rated.

(b) A certificated master parachute rigger may—

(1) Pack, maintain, or alter any type of parachute for which he is rated; and

(2) Supervise other persons in packing, maintaining, or altering any type of parachute for which he is rated.

(c) A certificated parachute rigger need not comply with §§ 65.127 through 65.133 (relating to facilities, equipment, performance standards, records, recent experience, and seal) in packing, maintaining, or altering (if authorized) the main parachute of a dual parachute pack to be used for intentional jumping.

§ 65.127 Facilities and equipment.

No certificated parachute rigger may exercise the privileges of his certificate unless he has at least the following facilities and equipment available to him:

(a) A smooth top table at least three feet wide by 40 feet long.

[(b) Suitable housing that is adequately heated, lighted, and ventilated for drying and airing parachutes.]

(c) Enough packing tools and other equipment to pack and maintain the types of parachutes that he services.

(d) Adequate housing facilities to perform his duties and to protect his tools and equipment.

§ 65.129 Performance standards.

No certificated parachute rigger may—

(a) Pack, maintain, or alter any parachute unless he is rated for that type;

(b) Pack a parachute that is not safe for emergency use;

(c) Pack a parachute that has not been thoroughly dried and aired;

(d) Alter a parachute in a manner that is not specifically authorized by the Administrator or the manufacturer;

(e) Pack, maintain, or alter a parachute in any manner that deviates from procedures approved by the Administrator or the manufacturer of the parachute; or

(f) Exercise the privileges of his certificate and type rating unless he understands the current manufacturer's instructions for the operation involved and has—

(1) Performed duties under his certificate for at least 90 days within the preceding 12 months; or

(2) Shown the Administrator that he is able to perform those duties.

§ 65.131 Records.

(a) Each certificated parachute rigger shall keep a record of the packing, maintenance, and alteration of parachutes performed or supervised by him. He shall keep in that record, with respect to each parachute worked on, a statement of—

(1) Its type and make;

(2) Its serial number;

(3) The name and address of its owner;

(4) The kind and extent of the work performed;

(5) The date when and place where the work was performed; and

(6) The results of any drop tests made with it.

(b) Each person who makes a record under paragraph (a) of this section shall keep it for at least 2 years after the date it is made.

(c) Each certificated parachute rigger who packs a parachute shall write, on the parachute packing record attached to the parachute, the date and place of the packing and a notation of any defects he finds on inspection. He shall sign that record with his name and the number of his certificate.

§ 65.133 Seal.

Each certificated parachute rigger must have a seal with an identifying mark prescribed by the Administrator, and a seal press. After packing a parachute he shall seal the pack with his seal in accordance with the manufacturer's recommendation for that type of parachute.

Appendix A

Aircraft Dispatcher Courses

(a) *Training course outline.*

It is not mandatory that the training course outline have the subject headings arranged exactly as listed in the following example. Any arrangement of headings and subheadings will be satisfactory provided all the subjects listed in this section are included. Each general subject of the outline shall be broken down, in detail, showing the items to be covered. Additional subjects, especially those which are not closely associated with the training of aircraft dispatchers, may be listed so long as the hourly requirements devoted to the subjects are not included as a part of the basic minimum hours.

(b) *Format of the training outline and course requirements.*

The course outline submitted for approval must be in looseleaf form, must include a table of contents and minimum coverage of the course material, and must include the following:

Subject	*Classroom Hours*
Federal Aviation Regulations	15
Subpart C of Part 65 of this chapter.	
Parts 25, 91, 103, and 121 of this chapter.	
Part 430 of the Regulations of the National Transportation Safety Board, "Rules Pertaining to Aircraft Accidents, Incidents, Overdue Aircraft, and Safety Investigations", on sale at the Government Printing Office.	
Meteorology	75
Basic properties of the atmosphere:	
Composition.	
Density.	
Measurement.	
General circulation.	
Solar heating.	
Clouds:	
Formation.	
Condensation.	
Precipitation.	
Use of cloud knowledge in forecasting.	
Stability and instability.	
Air mass analysis:	
Classification.	
Flying conditions to be encountered.	
Use of air mass knowledge in forecasting.	
Analysis of fronts:	
Structure and characteristics.	
Cloud sequences in fronts.	
Establishing position of front by cloud types.	
Fronts in North America and seasonal variations.	
Flying weather in fronts.	
Cyclones and anticyclones.	
Fog:	
Types.	
Cause and formation.	
Ice:	
Type.	
Cause and formation.	
Thunderstorms, hurricanes, tornadoes:	
Causes.	
Methods of forecasting.	
Structure and complexity of internal winds.	
Hail, its cause and formation.	
Turbulence:	
Cause.	
Determining the smooth level of flight.	

Subject	*Classroom Hours*
Interpreting weather data:	
Weather sequences and symbols.	
Weather map symbols.	
Drawing a weather map.	
Reading a weather map.	
Upper-level charts.	
Adiabatic charts.	
Winds-aloft charts.	
Instruments used to gather and record the weather.	
Weather forecasting:	
Extrapolation.	
Movements of fronts and air masses.	
Isobars.	
Barometric tendency.	
Application of weather knowledge:	
Planning a flight.	
Navigation	30
Study of the earth as a planet (charts, maps, and projections):	
Mercator projections.	
Gnomonic projections.	
Lambert projections.	
Polyconic projections.	
Chart reading:	
Symbols, landmarks, etc.	
Dead reckoning:	
Magnetic variation, compass deviation terms, wind and vectors.	
Correction angle.	
Finding wind drift-off course.	
Off-course problems.	
Wind velocity by single and double drift.	
Interception problems.	
Radius of action—problems.	
Search problems.	
Computer use—problems.	
Radio navigation:	
Principles of the radio range, radio compass direction finder, marker beacons, ILS, GCA, radio altimeter, LORAN, and any other.	
Navigation instruments:	
Altimeter, airspeed indicator, compass, drift and rate of climb indicator.	
Aircraft	15
Weight and balance:	
Center of gravity.	
How determined.	
Center of gravity limits.	
Problem in loading.	
Engine specifications:	
Powerplant:	
Operating limits.	
Fuel consumption.	
Accessories.	
Operating manual.	
Airplane specifications:	
Operational equipment.	
Flight controls, landing gear hydraulic system, electrical system, loading characteristics, fuel capacity heating and ventilating system, and deicing equipment.	
Performance:	
Effect of weight, wind, air density, and runway surfaces on takeoff performance of aircraft.	
Power setting and cockpit procedure.	
Types of cruise control.	
Communications	8
Radiotelephone rules and regulations.	
FCC rules and regulations.	
Company communications:	
Air-to-ground radio communications and procedures.	
Point-to-point communications and procedures.	
Equipment air-to-ground and point-to-point.	
FAA communications:	
Air-to-ground radio communications and procedures.	
Point-to-point communications and procedures.	
Equipment air-to-ground and point-to-point.	
Simulated Instrument Flight	10
Instrument familiarization.	
Bracketing.	
Orientation.	

Subject	Classroom Hours
Holding procedure.	
Let-down procedure.	
Missed-approach procedure.	
Air Traffic Control	30
Air route traffic control procedures and equipment.	
Airport traffic control procedures and equipment.	
Practical Dispatching	15
Preflight:	
Safety.	
Economic advantage.	
Crew.	
NOTAMS.	
The course and distance.	
Horizontal and vertical extent of the weather.	
Winds.	
Forecast.	
Minimum safe altitude.	
The cruising altitude.	
Flight plan.	
The alternate plan.	
Clearances, company air traffic control.	
The fuel.	
The load.	
The departure time.	
Inflight:	
Position report.	
Altimeter settings.	
Weather reports.	
Changes in forecast.	
Changing instrument altitude.	
Changing from VFR to IFR.	
Additional clearances.	
Emergency procedures.	
Postflight:	
Arrival report.	
Differences between the forecasted and actual weather encountered for subsequent flights.	

(c) *Facilities, equipment, and material.*

An applicant for authority to operate an approved aircraft dispatcher course of study must have the following facilities, equipment, and materials:

(1) *Facilities.*

Suitable classrooms, adequate to accommodate the largest number of students scheduled for attendance at any one time. Such classrooms shall be properly heated, lighted, and ventilated.

(2) *Equipment and materials.*

Suitable devices for the teaching of simulated instrument flight, navigation, and meteorology, acceptable textbooks, operations manuals, wall maps, charts, blackboards, and visual aids of a quantity which will provide for each student the theoretical and practical aspects of aircraft dispatching.

(d) *Instructors.*

(1) The number of instructors available for conducting the course of study shall be determined according to the needs and facilities of the applicant. However, the ratio of students per instructor may not exceed 25 students for one instructor.

(2) At least one instructor who possesses a currently effective aircraft dispatcher certificate must be available for coordination of the training course instruction.

(e) *Revision of training course.*

Requests for revision of course outlines, facilities, and equipment shall be accomplished in the same manner established for securing approval of the original course of study. Revisions must be submitted in such form that an entire page or pages of the approved outline can be removed and replaced by the revision.

The list of instructors may be revised at any time without request for approval, provided the minimum requirements are maintained and the local inspector is notified.

(f) *Credit for previous experience or training.*

A course operator may evaluate an entrant's previous experience or training and where the training or experience is provable and comparable to portions of the approved course curriculum, may, as each individual case warrants, allow credit for such, commensurate with accepted training practices. Where credit

is allowed, the basis for allowance and the total hours credited must be incorporated as a part of the student's records, provided for in paragraph (g) of this Appendix.

(g) *Student records and reports.*

Approval of a course may not be continued in effect unless the course operator keeps an accurate record of each student, including a chronological log of all instructions, subjects covered, and course examinations and grades, and unless he prepares and transmits to the FAA not later than January 31 of each year, a report containing the following information:

(1) The names of all students graduated, together with school grades for aircraft dispatcher courses.

(2) The names of all students failed or dropped, together with school grades and reasons for dropping.

(h) *Quality of instruction.*

Approval of a course may not be continued in effect unless at least 80 percent of the students who apply within 90 days after graduation are able to qualify on the first attempt for certification as aircraft dispatchers.

(i) *Statement of graduation.*

Each student who successfully completes the approved aircraft dispatcher course shall be given a statement of graduation.

(j) *Change of ownership, name, or location.*

(1) *Change of ownership.*

Approval of an aircraft dispatcher course may not be continued in effect after the course has changed ownership. The new owner must obtain a new approval by following the procedures prescribed for original approval.

(2) *Change in name.*

An approved course changed in name but not changed in ownership remains valid if the change is reported by the approved course operator to the local inspector who will issue a letter of approval under the new name.

(3) *Change in location.*

An approved course remains in effect even though the approved course operator changes location if the change is reported without delay by the operator to the local inspector who will inspect the facilities to be used in the new location and, if they are found to be adequate, issue a letter of approval showing the new location.

(k) *Cancellation of approval.*

(1) Failure to meet or maintain any of the standards set forth herein for the approval or operation of an approved aircraft dispatcher course is considered to be a sufficient reason for discontinuing approval of the course.

(2) If an operator desires voluntary cancellation of his approved course, he shall send a letter requesting cancellation to the Administrator of the Federal Aviation Administration through the local inspector.

(l) *Duration.*

The authority to operate an approved aircraft dispatcher course of study expires 24 months after the last day of the month of issuance.

(m) *Renewal.*

Application for renewal of an approved aircraft dispatcher course shall be made by letter addressed to the Administrator of the Federal Aviation Administration through the local inspector at any time within 60 days of the expiration date. Renewal of approval will depend on the course operator's meeting the current conditions of course approval and having a satisfactory record as a course operator.

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